Also, resolution of the Arizona Woolgrowers' Association, protesting against the passage by Congress of any of the several bills now pending changing and reducing the tariff on wool and meats until such time as the Tariff Commission shall be able to report on the subjects involved; to the Committee on Ways and Means.

Also, petition of Van Calvert Paint Co. against changing the present sugar schedule of the tariff laws; to the Committee on Ways and Means.

By Mr. FITZGERALD: Resolution of the Arizona Woolgrowers' Association, protesting against the passage by Congress of any of the several bills now pending changing and reducing the tariff on wool and meats until such time as the Tariff Commission shall be able to report on the subjects involved; to the Committee on Ways and Means.

By Mr. FOCHT: Papers to accompany House bill 13220, a bill for the relief of Calvin Seebold; to the Committee on Invalid Pensions.

By Mr. FULLER: Papers to accompany a bill for the relief of Daniel Mason; to the Committee on Invalid Pensions.

Also, petition of Keith Spalding and 26 others, of Tinley Park, Ill., favoring the passage of House bill 8611, to regulate the importation of nursery stock, etc.; to the Committee on Interstate and Foreign Commerce.

Also, paper to accompany House bill 12046, for the relief of James Trevillian; to the Committee on Invalid Pensions.

Also, petitions of D. C. Murray & Co., of Streator, Ill.; D. J. Stewart & Co., of Rockford, Ill.; and H. H. Wagner, of De Kalb, Ill., in opposition to a parcels-post law; to the Committee on the Post Office and Post Roads.

By Mr. GRIEST: Resolution adopted by the Lancaster (Pa.) Live Stock Exchange, indorsing the passage of the Canadian reciprocity bill; to the Committee on Ways and Means.

By Mr. KINDRED: Petition of Walter F. Fischer, of New York, N. Y., urging the passage of a bill increasing the pay of second lieutenants and chief musicians of regiments in the United States Cavalry; to the Committee on Military Affairs.

Also, petition of Mr. August Schneckenburger, of 118 Hunter Avenue, Long Island City, N. Y., urging legislation for the betterment of homes for United States soldiers and sailors; to the Committee on Military Affairs.

By Mr. SAMUEL W. SMITH: Petitions of numerous citizens of Michigan in favor of a parcels post; to the Committee on the Post Office and Post Roads.

By Mr. STEPHENS of California: Resolutions adopted by the Los Angeles (Cal.) Wholesalers' Board of Trade, relating to proposed legislation affecting the cold-storage industry; to the Committee on Agriculture.

Also, resolutions of the Los Angeles (Cal.) Chamber of Commerce, favoring legislation so as to permit corporations and companies to make their returns as of the close of their fiscal years; to the Committee on Ways and Means.

By Mr. SULZER: Resolutions of the Union League Club of Brooklyn, N. Y., indorsing the reciprocity bill; to the Committee on Ways and Means.

Also, petition of Louisville Branch, German-American Alliance, favoring an investigation of the administration of the immigration office at Ellis Island; to the Committee on Immigration and Naturalization.

By Mr. WILSON of New York: Resolutions of district captains of Fifth Assembly District Republican Organization of Brooklyn, N. Y., protesting against inadequate mail service in Brooklyn; to the Committee on the Post Office and Post Roads.

Also, petitions of National Consumers' League, protesting against the removal of Dr. Wiley; to the Committee on Agriculture.

SENATE.

FRIDAY, *August 4, 1911.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Journal of yesterday's proceedings was read and approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. J. C. South, its Chief Clerk, announced that the House had agreed to the amendment of the Senate No. 8 to the bill (H. R. 4413) to place upon the free list agricultural implements, cotton bagging, cotton ties, leather, boots and shoes, fence wire, meats, cereals, flour, bread, timber, lumber, sewing machines, salt, and other articles, with an amendment, in which it requested the concurrence of the Senate; disagrees to the residue of the amendments of the Senate to the bill; asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. UNDERWOOD, Mr. RANDELL of Texas, Mr. HARRISON of New York, Mr. PAYNE, and Mr. DALZELL managers at the conference on the part of the House.

The message also announced that the House had passed a bill (H. R. 12812) to reduce the duties on manufactures of cotton, in which it requested the concurrence of the Senate.

THE FREE LIST.

The VICE PRESIDENT laid before the Senate the action of the House of Representatives agreeing to the amendment of the Senate No. 8 to the bill (H. R. 4413) to place upon the free list agricultural implements, cotton bagging, cotton ties, leather, boots and shoes, fence wire, meats, cereals, flour, bread, timber, lumber, sewing machines, salt, and other articles, with an amendment, disagreeing to the residue of the amendments of the Senate to the bill, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. PENROSE. I move that the Senate disagree to the amendment of the House to amendment No. 8, and further insist upon its amendments, and comply with the request of the House for a conference, and that five conferees be appointed on the part of the Senate, to be selected by the Chair.

The motion was agreed to, and the Vice President appointed Mr. PENROSE, Mr. CULLOM, Mr. LA FOLLETTE, Mr. BAILEY, and Mr. SIMMONS conferees on the part of the Senate.

THE COTTON SCHEDULE.

H. R. 12812, an act to reduce the duties on manufactures of cotton, was read twice by its title.

Mr. MARTIN of Virginia. I move that the bill be referred to the Committee on Finance, with instructions to report to the Senate not later than the 10th day of August.

Mr. OVERMAN. Mr. President, I move as an amendment that the committee be instructed to report back the bill not later than the 24th of August. That would give the same time, I understand, that was given on the wool bill, and I want to have the cotton manufacturers treated in the same manner. If the committee chooses to report back the bill the next day, we can not help that; but the people of my State want to be heard on this measure, and they ought to be heard.

I represent a State, Mr. President, that has 300 cotton mills, with a capital of $100,000,000, and in their behalf, on behalf of the 50,000 laborers who receive $15,000,000 in wages annually, I ask this simple justice, that they may be heard. I doubt whether in 10 days they can get here. This is the 4th, to-morrow is the 5th, Sunday is the 6th. It would give them only 4 days, if the committee should meet on Monday and Tuesday and Wednesday. They want a sufficient time for a hearing.

I understand that this bill, in some respects at least, ought to be amended. I see that in the debate in the House of Representatives it was admitted that there is an increase in the tariff of 250 per cent on some of the goods which are made in my own State, and I will protest against that. My people do not want any increase; they want a revision; but they want a fair and a just revision of this schedule. They want to be heard, and the people of this country ought to be heard upon this subject. The men who are particularly interested as well as all the people ought to be heard upon this subject, and especially ought the manufacturers to be heard.

There is a good deal of difference between this bill and some other bills here. So far as a trust in cotton or cotton goods is concerned, I stand here to say that there is no trust and never has been a trust. There have been attempts in my State to form a trust of the cotton mills, but they have not succeeded. The mills have been suffering. Many of them have been running on half time, and some of them have gone into the hands of a receiver. They have not been declaring dividends. They want to know and I want to know what there is in this bill. They want to be heard. They ask for a revision, but they ask for a just revision. All that I ask is that these people be given time to be heard, and four days is not sufficient time.

Mr. SMITH of Michigan. Mr. President——

The VICE PRESIDENT. Does the Senator from North Carolina yield to the Senator from Michigan?

Mr. OVERMAN. Certainly.

Mr. SMITH of Michigan. I simply want to suggest to the Senator from North Carolina that this somewhat belated plea for a hearing upon the question of a reduction of duties on the products of the South comes with very poor grace from the other side of the Chamber, which but a day or two ago, where more than a million men were directly affected in their employment, pushed a free-trade bill through the Senate without even so much as an apology or a word of warning to the industries affected, although entire communities were harmfully involved.

Mr. OVERMAN. Yes; but when we did that we were standing upon the Democratic platform, which declares that there

be an immediate revision in those schedules, whereas in other schedules it provides that there should be a gradual revision.

Mr. SMITH of Michigan. No; Mr. President——

The VICE PRESIDENT. One moment. Does the Senator from North Carolina yield further to the Senator from Michigan?

Mr. OVERMAN. I do.

Mr. SMITH of Michigan. The Senator from North Carolina says that was a vastly different situation from the one which we confront this morning. But the unblushing truth is that the honorable Senator from North Carolina has been gored by his own horn, and the southern industry that demands from him protection at the hands of the American Congress has greater claims upon his patience and consideration and demands that different methods of procedure be pursued by the Senator from North Carolina and his associates on that side of the Chamber than in the case of industries in the North which were similarly affected a few days ago.

Mr. OVERMAN. Not at all, Mr. President. Our people are not demanding high protection. They are demanding a revision of these schedules themselves. They ask for it, but they want complete justice.

I want to say to the Senator that I voted to refer the wool bill to the Committee on Finance and give them 20 days for a hearing and a report. All I ask is that the cotton schedule be treated in the same manner. I ask no more and no less. I ask for fairness and justice.

Mr. WARREN. Mr. President——

Mr. OVERMAN. I yield to the Senator from Wyoming.

Mr. WARREN. I do not wish to antagonize the Senator's motion, but when he speaks of reference of the wool bill to the Committee on Finance with instructions to report it almost immediately he perhaps remembers that when we had the sundry civil appropriation bill under consideration the motion came from the other side of the House, and it was supported and unanimously agreed by the Democratic side of the Senate that a Tariff Board should take up the matter of the wool schedule and report next December. That was impliedly, at least, a direction, and I might almost say an agreement, that it should not be taken up until we had the benefit of a report from the Tariff Board.

Mr. OVERMAN. It is true, I think, that the Senator from Texas [Mr. CULBERSON] introduced an amendment requiring the Tariff Board to report not later than the 1st of December, but there was no agreement and no understanding as to the time when the revision of the tariff should begin.

Mr. WARREN. Furthermore, the Senator speaks of the cotton industry not being governed by trusts. I will not antagonize him in that statement, but I desire to say that the wool business has never been, is not now, and, in my opinion, never can be, controlled by a trust or trusts.

Mr. OVERMAN. Mr. President, all I ask is that the same proceeding be taken with this bill that was taken on the wool bill.

Mr. CUMMINS. Mr. President, I should like to ask the Senator from North Carolina a question. Can he give us absolute assurance that Congress will be in session August 24?

Mr. OVERMAN. I can not, but I notice from the newspapers that the President is going to veto the wool bill. If he will veto the wool bill on account of not having a report from the Tariff Board, he will do the same thing with the cotton bill. If that is so, I will ask the Senator why we should go on and pass this bill? Believing it to be true, as everybody does believe, that the President is going to veto the wool bill, and will veto the cotton bill, why should we go on and debate this bill when we know that will be the result?

Mr. CUMMINS. I do not think we have any right to take into consideration what the President of the United States may do or may not do upon the wool bill or any other bill. It is his function to approve or disapprove acts in Congress. It is our function to pass acts or refuse to pass them, as it may be, and we ought to consider only the merits of the proposition.

Now, we have at this session put upon the free list the agricultural products of the United States, which I think last year amounted in value to nearly $9,000,000,000, representing the greatest interest in the United States. It seems to me we will be false to our duty if we do not before Congress adjourns reduce the duties upon those things which the farmer must buy.

I would have no particular objection to a postponement until the time mentioned by the Senator from North Carolina if I were sure that in the meantime some action would not be taken looking toward the adjournment of Congress prior to that date.

We adopted a motion directing the Finance Committee to report the wool bill and the free-list bill, giving the committee upon each of those bills 10 days, or something like that, for the investigation, the time suggested by the Senator from North Carolina. But the committee did not avail itself of a single hour or a single day for such investigation, and we have no reason to believe that if this bill were sent to the Committee on Finance it would attempt to make any investigation of its merits. On the other hand, if we are to be guided by precedent, we might expect that to-morrow morning the Finance Committee would, for the reasons stated before, report this bill.

For one, unless the chairman of the Finance Committee will say that within the time limited he expects to enter upon the investigation of the merits of the bill, I would be in favor of putting it upon the calendar without any reference whatsoever to the Finance Committee, and let us consider it as we can from the sources of information which are open to us.

I do not know whether the bill is such a bill as we ought to pass or not. I am just as earnest and anxious to see that no harm or injury shall come to the cotton mills, either North or South, as is the Senator from North Carolina. But I want the Congress of the United States to vote upon this measure and such other amendments to the tariff as may be added to it before adjournment, and I am opposed to any proceeding that by any possibility will permit Congress to adjourn until we have voted upon this bill.

Mr. OVERMAN. Does the Senator want to vote for it without understanding its provisions?

Mr. CUMMINS. I do not think——

Mr. OVERMAN. Has the Senator investigated the bill?

Mr. CUMMINS. The investigation through the Finance Committee would, in my opinion, be of little value in determining what I ought to do with respect to my vote upon it.

Mr. OVERMAN. I understand that the Senator has been very diligent.

Mr. CUMMINS. I think we may follow the course we followed with regard to the wool bill. I have investigated the general subject. I have not, however, examined with care this bill that has just passed the House of Representatives. I expect, however, to be as well qualified as I can be to vote upon the bill which is finally submitted to the Senate.

Mr. OVERMAN. The Senator is very fair and very just; he is always very diligent to get information unless he understands the provisions of a bill. Now, this is a very intricate bill. Does the Senator think he can investigate this bill by the 10th of August sufficiently to understand it?

Mr. CUMMINS. Mr. President, I do not want to vaunt my powers of investigation, but this is not a new subject with me. I gave it a good deal of time and a good deal of thought two years ago, and I have some rather decided convictions upon the matter. Bearing in mind that it is not altogether new, I answer the Senator from North Carolina by saying that I believe if the bill is reported from the committee by next Wednesday and we then fix a time somewhat in advance for voting upon it, with full opportunity for discussion upon the floor of the Senate before the time comes to vote, I shall be able to express my real convictions upon the subject.

Mr. OVERMAN. Well, the Senator voted for 20 days' delay, I think, on the wool bill. Would he not treat the cotton mills of the South and of the North in the same way that he treated the wool business? If the committee fails to report the bill, the responsibility will be on the committee.

Mr. CUMMINS. I voted for, it seems to me, 10 days' delay on the wool bill; but I am not sure about that.

Mr. OVERMAN. I think it was 20 days.

Mr. PENROSE. It was 20 days.

Mr. CUMMINS. Twenty days. I had forgotten the exact time. I believe in giving the Finance Committee a reasonable time in which to investigate and consider the bill, but I know, and the Senator from North Carolina knows, that if we were to extend the time as suggested the Finance Committee would follow the same course as it followed with regard to the wool bill and the free-list bill. More than that, if it comes to a choice between voting upon this bill with such information as we have and can get independently of the work of the Finance Committee and not voting upon it at all, I am in favor of voting upon it with such information as the Members of the Senate can get independently of the Finance Committee.

I do not want to incur any risk whatsoever of the adjournment of Congress until we revise the cotton schedule, the metal schedule, the sugar schedule, and some others that, in my opinion, contain indefensibly high duties; and I am sure the Senator from North Carolina is in sympathy with me in that desire.

Mr. OVERMAN. Mr. President, I am in full sympathy with the Senator; but I want to ask him a question. It is generally understood that the President will veto the wool bill if it is sent to him early next week. I do not know whether that is

so or not; but if he should veto that bill and put his veto upon the ground that Congress had passed a bill requiring the Tariff Board to report by the 1st of December, and that he would not approve any legislation upon the tariff until the Tariff Board made its report, would the Senator then, after such a message had been sent in, be in favor of going into these other schedules?

Mr. CUMMINS. I would. I do not believe that the President of the United States will or ought to say to Congress what he will do upon certain proposed acts of Congress. It would be in the highest degree improper, and I can not conceive that it will be done. The President might put his veto, if he does veto the wool bill, and I do not believe he will veto it; I believe it is a good bill; I believe the President will see that it is a good bill when he comes to examine it; and I assume that he will do what is right; and if he does what is right, he will sign the bill and not veto it; but if he does veto the wool bill, he might put his veto upon the ground that we have asked for further information with respect to the production of wool; but we have not as yet asked for any information, as I understand, with regard to the manufacture of cotton or the manufacture of iron or steel or the production of sugar. It could hardly be said that because he might disapprove one bill which did not meet his views, therefore he would veto every bill, no matter what its merits might be, that should come to him in the ordinary proceedings of Congress.

Mr. OVERMAN. Mr. President, I know that the Tariff Board is now investigating the cotton schedule, and has some 50 or 100 agents here and abroad; but that does not interest me. The Senator and I fully agree as to the revision of the tariff. If the President signs the wool bill—and I believe he ought to sign it; I believe it is a good bill—I am willing to stay here until next December and take up all these schedules; but I see no use in staying here if the President is going to veto that bill upon that ground. It would be useless to do so. It is only four months until Congress will meet again, and why all this haste? We are all tired; we are all worn out. I think we can come back here in December and revise all these schedules in the interest of the 90,000,000 people of this country.

Mr. President, what I ask is that we be treated in the same way that others have been treated in regard to the wool bill.

Mr. MARTIN of Virginia. I regret exceedingly that the Senator from North Carolina should be making a plea for delay in the revision of the tariff. We are charged with duties of our own here, and I think we discharge those duties poorly when we govern ourselves in respect to them by any supposed action the President may take.

Revenue bills, under the Constitution, must originate in the House of Representatives. The House of Representatives have given careful, tedious, and protracted consideration to the revision of the cotton schedule; they have sent us a bill making radical reductions in the duties on cotton products, and the question now confronts the Senate as to whether it will adjourn without acting on that bill or will take decisive steps for its consideration. I am exceedingly unwilling, so far as I am personally concerned, to see the Senate adjourn without voting on the cotton-schedule bill which has been sent to us from the House of Representatives. It is manifest that the Senator from North Carolina is making his motion, contemplating that, if it carries, it will delay matters so that we will get no action until next December.

Mr. OVERMAN. Mr. President, why does the Senator assume that? There is a difference of only 10 days in time between his motion and mine.

The VICE PRESIDENT. Does the Senator from Virginia yield to the Senator from North Carolina?

Mr. MARTIN of Virginia. Certainly, I yield.

Mr. OVERMAN. Why does the Senator assume that? Does the Senator assume that we are going to adjourn next week?

Mr. MARTIN of Virginia. I do not assume anything. The Senator from North Carolina argued that a wise solution of the matter would be to let the bill go over until December; and I thought that was his real object in making the motion, for he argued that that was the wise course to take.

Mr. OVERMAN. I said if we were not going to have any legislation, it would be a wise course. I made the same motion that he supported in regard to the wool bill. Now, why does he say that I am trying to delay?

Mr. MARTIN of Virginia. Because time is more precious now than it was then.

Mr. OVERMAN. Not at all. If the Senator will stand here with me, I am willing to revise the whole tariff. I am willing to revise the cotton schedule as much as he is; but when he says that I am in favor of delay, he is stating that which he ought not to state in regard to my motion, as he knows my motion was only for a 10 days' delay.

Mr. MARTIN of Virginia. Of course, the Senator can construe his own motives and his own purposes; but I construed the argument he made to be an argument against action at the present session. I understood the Senator to argue that no harm would be done if this matter went over until December; that it was only a few months away, and we would then have ample time to give it more careful consideration.

Mr. OVERMAN. I am afraid the Senator——

The VICE PRESIDENT. Does the Senator from Virginia yield further to the Senator from North Carolina?

Mr. MARTIN of Virginia. I yield.

Mr. OVERMAN. I am afraid the Senator did not listen to me. In my colloquy with the Senator from Iowa [Mr. CUMMINS] I said, putting a hypothetical question, that in the event the wool-schedule bill was vetoed it would be a useless thing for us to go on and vote on this bill and have it vetoed, as we know it will be if the President should base his action upon the ground that he wanted a report from the Tariff Board. That was my reason for that statement, and that was the only reason. I am afraid the Senator did not listen to what I said.

Mr. MARTIN of Virginia. I listened to every word the Senator said. I may not have understood his meaning as he intended it, but I understood that his argument was that, as the President was going to veto these bills anyhow, it would not make any difference if they went over until next December. It may not have been the Senator's purpose to convey that meaning, but I say I so understood his argument. I may have misunderstood him; but I certainly listened and put a construction on his words that I thought was just. I may have been mistaken; but, in any event, it matters not what the meaning of the Senator was, the adoption of his motion would probably result in the adjournment of Congress without having a vote on the cotton-schedule bill.

Mr. OVERMAN. Did the Senator make his motion for 10 days because he thought the Senate would adjourn within 10 days?

Mr. MARTIN of Virginia. I made my motion giving six days, because I believed that such consideration as was necessary might be given in six days. I felt that the Senate and the country wanted speed in these matters, wanted action, and quick action; and I thought that satisfactory action could be had within those six days.

Mr. OVERMAN. But the Senator has not answered my question. I asked the Senator if he made that motion because he believed Congress would adjourn within 10 days. I ask the Senator if that was the moving cause?

Mr. MARTIN of Virginia. I do not believe Congress will adjourn in 10 days, but I know Congress is exceedingly anxious to adjourn and the country, I believe, is exceedingly anxious for it to adjourn, and I want to speed adjournment by dispatching business as quickly as possible.

Mr. OVERMAN. The Senator has not yet answered my question. I asked him if that was the moving cause in his asking that the bill be reported back here in six days. I ask him now if that was not the reason? I ask him to treat me as candidly as I have treated him.

Mr. MARTIN of Virginia. I have treated the Senator from North Carolina with absolute candor, and nobody who has heard my words can construe them in any other way than as being candid. I say the Senate is anxious to adjourn, and they want these matters to be speeded and want them acted on. I do not know what the Senate thinks about it, but I think we have had hearings enough. I think there are printed hearings taken at other periods that are available now, that can be seen and read and considered, and I do not believe it is necessary to have any more extended hearings than can be had within the six days afforded by the motion I have made.

Mr. OVERMAN. The Senator has not yet answered my question.

Mr. MARTIN of Virginia. Well, Mr. President, I decline to yield for any such repetition of a question that I can not possibly answer. I do not know when the Senate will adjourn——

The VICE PRESIDENT. The Senator from Virginia declines to yield.

Mr. MARTIN of Virginia. But I do not intend, if I can avoid it, to see any time wasted about this matter. I think six days ample time, and I believe that the Finance Committee will do with this bill as it did with the wool bill, and will report it to-morrow morning. There is no necessity, in my judgment, for hearings. We have had hearings; they have been printed, and they are available. There has been no such change of conditions as to require elaborate hearings in respect to this bill. We have revised the woolen schedule, and there is no reason why we should make an exception of the cotton schedule bill. I want these products treated alike. I want the Southern States to come up to the rack and give to the consuming public that

same measure of justice which was given to them in respect to woolen fabrics. I see no reason to differentiate the cotton products from the woolen products. I want the cotton schedule revised. There is no time for hearings and no necessity for hearings, as we have had sufficient hearings, which have been printed and can be resorted to by all who desire information.

I hope my motion will prevail, and I hope the Finance Committee will report the bill to-morrow morning, so that we may go along, consider it, pass it, and reduce the duties on cotton fabrics as we have attempted to do on woolen fabrics.

Mr. OVERMAN. I should like to ask the Senator if he is willing to pass this bill as it comes from the House? Is he willing to increase the tariff 250 per cent on goods made in the South?

Mr. MARTIN of Virginia. Mr. President, I have not scrutinized the items of this bill. I expect to do so in the next six days; and if there is any provision in it which my judgment does not approve, I shall vote against that provision; but I will be glad to vote on it as quickly as possible, and I want the Finance Committee to bring it before the Senate within the six days, as provided by my motion.

Mr. OVERMAN. Well, if the Senator has read the RECORD this morning, he will have seen that Mr. UNDERWOOD practically admits that there is an increase in several items in the bill. I am not here to vote for an increase in tariff duties for our southern people. I want the cotton schedule revised as much as the Senator does, but I want it revised in the right way. I want to say I understand that the increase resulted from a clerical error and was not intended by the Ways and Means Committee of the House, but it is in the bill, and therefore the bill should receive consideration by the Committee on Finance in order that they may correct that inequality. Although it is a clerical error, it is in the bill, and it makes an increase in one item of 250 per cent and in another of 20 per cent, affecting the lower classes of goods which are manufactured in the South. We of the South do not want any such high protection; we do not want any protection at all. We want a just and equal revision of the tariff, as the Senator from Virginia has said. And that is all I claim for my people.

Mr. MARTIN of Virginia. Mr. President, the Senator from North Carolina can hardly contend in any serious way that it will take more than six days to correct an error which is admitted to be a clerical error. If there are any errors in this bill let them be corrected and let the Senator from North Carolina, and all Senators, if clerical errors or errors of judgment exist in the bill, endeavor to remove them. I simply say, give us a hearing; let us have this bill back in the Senate; let us vote on it; and let us make sure that we do not adjourn until we treat the cotton schedule just as we have treated the woolen schedule. Let us proceed with the execution of our duties in this respect regardless of the way in which we may theorize as to the probable course the President may take. Even in case the President should veto the woolen schedule bill, that does not indicate that he will also veto the cotton schedule bill. Let us send to the President equitable, fair, and proper bills providing for a just downward revision of the tariff in the interest of the great body of the American people, and let him deal with those bills when they are laid before him. We should not halt or hesitate on the theory that the President will do less than his duty or more than his duty. Let us do our duty by sending him these bills, and let him then take the responsibility which devolves on him under the Constitution.

I hope, Mr. President, that my motion will be adopted and that we shall have an opportunity speedily to take up this bill, consider it, and vote upon it.

Mr. PENROSE. Mr. President, the conferees on the part of the Senate on the wool bill met this morning. They will have to meet to-morrow. Monday has been agreed on by unanimous consent to vote upon the statehood resolution. It is not unlikely that a recess will be taken late on Monday afternoon or in the evening, and that the statehood resolution will not be finally disposed of until Tuesday. It will be impossible to call a meeting of the Committee on Finance on the cotton measure until Wednesday of next week, and that would leave the time for hearing or consideration so short, under the original motion or the amendment, as to render the proposition of holding hearings absolutely out of the question. It would certainly be unfair for the committee to hear the constituents of the Senator from North Carolina and be unable to grant hearings to the hundreds of persons from all over the United States who have made requests of the chairman of the committee for hearings upon the very complicated schedules of this measure. Therefore if haste is the purpose of the majority in the Senate, and not deliberation and intelligent consideration and discussion, I am absolutely in sympathy with the Senator from Virginia and shall do all I can to expedite the measure in the committee by having it reported the next morning should this motion or the amendment be adopted. If the matter were to be taken up as it should be taken up, there ought, of course, to be no limitation, and the measure ought to go over until the next regular session of Congress when the report of the Tariff Board may be here, a method of tariff revision which has been clamored for by many all over the country for years and which is in practical and effective operation.

But if it is simply speed to pass some kind of a bill, I am in earnest sympathy with the purpose of expedition, and will endeavor to have the bill promptly reported, so that this Congress may adjourn at an early date and relieve the business interests of the country of the uncertainty and the menace under which they are now conducting business. Neither the motion nor the amendment, in my opinion, should be adopted, but if either is, I will use every effort to comply with the spirit of it by securing immediate action.

Mr. SIMMONS. Mr. President, it is well known that the House did not give hearings either to those interested in the manufacture of wool or in the manufacture of cotton. When the wool bill was referred to the Committee on Finance, as I remember it—and if I am not correct about that I hope the chairman of the committee will correct me—nobody appeared before the committee asking to be heard. I assume if anyone interested in the wool schedule had appeared before the committee and asked for hearings, the committee would have accorded them hearings to the extent of the time allowed in the resolution.

Mr. PENROSE. Will the Senator permit me?

The VICE PRESIDENT. Does the Senator from North Carolina yield to the Senator from Pennsylvania?

Mr. SIMMONS. Certainly.

Mr. PENROSE. In reference to hearings, it was expressly stated, I believe, by the Senator from Utah [Mr. SMOOT] and others that it was a physical impossibility to notify the very many persons wanting hearings on the wool bill, many of whom were absent with the herds and could not have been reached for some time, and to have them here within the limit fixed by the resolution offered by the Senator from Oklahoma.

Mr. SIMMONS. The Committee on Finance would not have refused those interested in wool an opportunity to be heard if the committee had supposed that it had sufficient time to give them adequate hearings.

Mr. PENROSE. Had there been sufficient time, the committee would have been only too glad to take the bill up intelligently and considerately and to have gone into it.

Mr. SIMMONS. Then the reason the committee acted at once was, first, there was nobody present representing the wool interests asking to be heard, and there was not sufficient time to get those interested before the committee.

Mr. PENROSE. It was considered to be unfair and impossible to grant hearings to a few without granting hearings to the majority of substantial and responsible persons who desired a hearing.

In connection with the reciprocity bill, as the Senator from North Carolina, who is a member of the committee, knows, the committee sat patiently for nearly a month and heard over 100 persons. But to go into extensive hearings in an industry which covers the continent in its various phases and to say to one person he shall be heard and to another that he shall not is unfair and impracticable.

Mr. WARREN. Mr. President——

The VICE PRESIDENT. Does the Senator from North Carolina yield to the Senator from Wyoming?

Mr. SIMMONS. In just one moment. Then the Senator from Pennsylvania, as I understand, says substantially what I stated at first, that there was no disposition on the part of the Committee on Finance to deny hearings to those interested in wool had the condition been such as to allow adequate hearings.

Mr. PENROSE. The committee would have welcomed hearings to show the inherent defects in that measure had it been in any way possible to bring the proper persons to Washington within the time set by the limitation.

Mr. SIMMONS. Now, I yield to the Senator from Wyoming.

Mr. WARREN. Mr. President, it is perfectly evident, when we remember the time that was given, that so far as the woolgrowers were concerned, they had not time to get here. We could not get a letter or summons to them and have them reach here until after the date set for the Finance Committee to report the bill. The majority of the wool grown in this country is grown in localities distant from railroad points and far distant from this point. It was absolutely impossible for woolgrowers to appear within the time given. Perhaps it was made so purposely. I do not make that accusation. But when 18 or

19 days only are given for the consideration of a subject of that kind you can not, by letters, reach men 2,000 miles away from here, and, perhaps, 100 or 200 miles away from post offices or railroads, as some of them are, and have them appear here. It was perfectly understood that they could not come.

Mr. SIMMONS. I agree entirely with the Senator from Wyoming. The time was not sufficient for full hearings.

Mr. NELSON. Mr. President——

The VICE PRESIDENT. Does the Senator from North Carolina yield to the Senator from Minnesota?

Mr. SIMMONS. Certainly.

Mr. NELSON. Mr. President, it is perfectly evident that hearings before the Finance Committee can result in no good. Nearly all the testimony taken before the Finance Committee on Canadian reciprocity was in opposition to that project, and yet the majority of the Finance Committee were entirely oblivious to that testimony. Judging by what they did in that case, what is the good of having hearings in this case? You can pile testimony upon testimony mountain high, and it may make no more impression than it did in the matter of Canadian reciprocity. So what is the good of having a reference to the committee at all? It did no good in that case. We got no help from the committee in that case. We from the Northwest who were so vitally affected had to fight our battles without any help from that committee, and the whole testimony was as though it had been dropped in the Potomac River and had sunk out of sight.

Mr. SIMMONS. What the Senator says is doubtless true in reference to the Canadian reciprocity hearings. But that is no reason why persons interested in these great subjects about which we are legislating should not be given a reasonable opportunity to present their views to the Congress. If the Congress, having light, refuses to see, that is the fault of Congress.

Mr. President, my understanding is that the cotton-mill people—certainly in my State, and I think it is so elsewhere—are very anxious to have an opportunity to present to Congress before final action their views about this matter. They have complained to me most bitterly because they were not permitted to go before the Committee on Ways and Means in the House, and they have asked me as a member of the Finance Committee to use my influence to try to get them a hearing before that committee.

I certainly do not desire any more time than is reasonably necessary to give them an opportunity to come before the committee and make such presentation of their cause as they may see proper. But I do think there is no such urgency as requires that we should cut these people off and give them no opportunity to be heard at all in either branch of Congress.

I know we are all very anxious to get away from here; that we feel the pressure of time very much. I suggest to my colleague that he amend his motion so as to require the committee to report on the 20th instead of the 24th.

Mr. OVERMAN. I have no objection. I will make that amendment. All I want is that people who are demanding to be heard shall be heard. Every man in this country who wants to be heard ought to have a hearing.

The VICE PRESIDENT. The Senator from North Carolina [Mr. OVERMAN] amends his amendment to provide for the 20th rather than the 24th instant.

Mr. OVERMAN. I suggest to my colleague also that the people living in the cotton-mill section of this country can arrive here within 48 hours.

Mr. SIMMONS. They can get here somewhat earlier than the woolgrowers could, and therefore less time will do. The Senator from Georgia [Mr. BACON] suggests the 15th, but I think the 20th would be about as little time as would reasonably be required.

Mr. BACON. Mr. President, I suggest to make it the 15th. I think that would be agreeable to all parties.

Mr. OVERMAN. Just to show that I am not moving for delay, as suggested by my friend the Senator from Virginia [Mr. MARTIN], I will accept the suggestion and make it the 15th.

The VICE PRESIDENT. The Senator from North Carolina modifies his amendment.

Mr. MARTIN of Virginia. I simply desire to say that I do not believe hearings of any value can be had or any complete or satisfactory hearings—new ones—can be had between now and the 10th or between now and the 15th either; and I sincerely hope that my motion will prevail and that it will not be amended, and that this bill shall be reported back to the Senate on or before the 10th day of August.

Mr. SIMMONS. If the Senator from Virginia will permit me, I want to assure him that the cotton-mill people who have talked to me, some from New England as well as from North Carolina, have assured me that they had no purpose to bring about delay; that they honestly desired an opportunity to state their case and only that. The 15th would hardly give ample time, but as a matter of compromise I am willing to agree to that.

Mr. PENROSE. I call for the yeas and nays on the motion.

The VICE PRESIDENT. The Senator from Virginia moves that the bill be referred to the Committee on Finance with instructions to report it back on or before August 10. The Senator from North Carolina offers an amendment, making the date August 15. Upon the amendment the Senator from Pennsylvania asks for the yeas and nays.

The yeas and nays were ordered.

Mr. BACON. I understand the vote is upon the question of fixing the 15th.

The VICE PRESIDENT. That is the motion.

The Secretary proceeded to call the roll.

Mr. BACON (when his name was called). I again announce that I have transferred my general pair with the Senator from Maine [Mr. FRYE] to the junior Senator from Tennessee [Mr. LEA] and vote "yea."

Mr. CULBERSON (when his name was called). I have a general pair with the Senator from Delaware [Mr. DU PONT]. In his absence, I withhold my vote.

Mr. MYERS (when the name of Mr. DAVIS was called). I have been requested to announce that the Senator from Arkansas [Mr. DAVIS] is paired with the senior Senator from New Hampshire [Mr. GALLINGER]. I will let this announcement stand for the day.

Mr. GUGGENHEIM (when his name was called). I have a general pair with the senior Senator from Kentucky [Mr. PAYNTER]. In his absence, I withhold my vote.

Mr. PENROSE (when his name was called). I am paired with the junior Senator from Mississippi [Mr. WILLIAMS]. Were he present, and I permitted to vote, I should vote "nay." In his absence, I withhold my vote.

The roll call was concluded.

Mr. BURNHAM. I wish to state that my colleague [Mr. GALLINGER] is necessarily absent. He is paired with the Senator from Arkansas [Mr. DAVIS].

Mr. SMOOT. I desire to announce that my colleague [Mr. SUTHERLAND] is out of the city. He is paired with the Senator from Maryland [Mr. RAYNER]. I will let this announcement stand on all votes that may be had to-day.

Mr. PAGE. I desire to announce that my colleague [Mr. DILLINGHAM] is absent, engaged on the Lorimer committee. He is paired with the senior Senator from South Carolina [Mr. TILLMAN].

Mr. NELSON. I desire to state that the senior Senator from North Dakota [Mr. MCCUMBER] is paired with the senior Senator from Mississippi [Mr. PERCY]. If the senior Senator from North Dakota were present, he would vote "nay" on this question.

Mr. CLARK of Wyoming (after having voted in the negative). I have a general pair with the Senator from Missouri [Mr. STONE]. I notice he has not voted. I therefore withdraw my vote.

The result was announced—yeas 12, nays 51, as follows:

YEAS—12.

Bacon	Foster	Newlands	Simmons
Bryan	Johnston, Ala.	Overman	Thornton
Dixon	Martine, N. J.	Owen	Warren

NAYS—51.

Bankhead	Clarke, Ark.	Kern	Reed
Borah	Crane	La Follette	Root
Bourne	Crawford	Lippitt	Shively
Bradley	Cummins	Martin, Va.	Smith, Mich.
Brandegee	Curtis	Myers	Smoot
Briggs	Fletcher	Nelson	Stephenson
Bristow	Gamble	Nixon	Swanson
Brown	Gronna	O'Gorman	Taylor
Burnham	Heyburn	Oliver	Townsend
Burton	Hitchcock	Page	Watson
Chamberlain	Johnson, Me.	Perkins	Wetmore
Chilton	Jones	Poindexter	Works
Clapp	Kenyon	Pomerene	

NOT VOTING—27.

Bailey	Frye	McCumber	Smith, Md.
Clark, Wyo.	Gallinger	McLean	Smith, S. C.
Culberson	Gore	Paynter	Stone
Cullom	Guggenheim	Penrose	Sutherland
Davis	Lea	Percy	Tillman
Dillingham	Lodge	Rayner	Williams
du Pont	Lorimer	Richardson	

So Mr. OVERMAN'S amendment to the motion of Mr. MARTIN of Virginia was rejected.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Virginia [Mr. MARTIN] that the bill be referred to the Committee on Finance, with instructions to report to the Senate not later than the 10th day of August.

Mr. PENROSE. On that motion I call for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CULBERSON (when his name was called). I have a general pair with the Senator from Delaware [Mr. DU PONT]. In his absence I withhold my vote. If I were at liberty to vote, I should vote "yea."

Mr. GUGGENHEIM (when his name was called). I again announce my general pair with the senior Senator from Kentucky [Mr. PAYNTER]. If I were at liberty to vote, I should vote "nay."

The roll call was concluded.

Mr. CULBERSON. I transfer my pair with the Senator from Delaware [Mr. DU PONT] to the Senator from Maryland [Mr. SMITH], and vote "yea."

Mr. DILLINGHAM. I transfer my general pair with the senior Senator from South Carolina [Mr. TILLMAN] to the senior Senator from Massachusetts [Mr. LODGE], and vote. I vote "nay."

Mr. BACON. I transfer my general pair with the Senator from Maine [Mr. FRYE] to the Senator from Tennessee [Mr. LEA], and vote "yea."

Mr. SMOOT. I desire to state that my colleague [Mr. SUTHERLAND] has a general pair with the senior Senator from Maryland [Mr. RAYNER]. If my colleague were here, he would vote "nay."

The result was announced—yeas 38, nays 26, as follows:

YEAS—38.

Bacon	Clapp	Johnston, Ala.	Pomerene
Bailey	Clarke, Ark.	Kern	Reed
Bankhead	Crawford	La Follette	Shively
Borah	Culberson	Martin, Va.	Swanson
Bourne	Cummins	Martine, N. J.	Taylor
Bristow	Dixon	Myers	Thornton
Brown	Fletcher	Newlands	Watson
Bryan	Gronna	O'Gorman	Works
Chamberlain	Hitchcock	Owen	
Chilton	Johnson, Me.	Poindexter	

NAYS—26.

Bradley	Dillingham	Oliver	Smoot
Brandegee	Gamble	Overman	Stephenson
Briggs	Heyburn	Page	Townsend
Burnham	Jones	Perkins	Warren
Burton	Kenyon	Root	Wetmore
Crane	Lippitt	Simmons	
Curtis	Nelson	Smith, Mich.	

NOT VOTING—26.

Clark, Wyo.	Gore	Nixon	Smith, S. C.
Cullom	Guggenheim	Paynter	Stone
Davis	Lea	Penrose	Sutherland
du Pont	Lodge	Percy	Tillman
Foster	Lorimer	Rayner	Williams
Frye	McCumber	Richardson	
Gallinger	McLean	Smith, Md.	

So the motion of Mr. MARTIN of Virginia was agreed to.

The VICE PRESIDENT. The presentation of petitions and memorials is in order.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT presented a petition of the International Longshoremen's Association, praying that the hours of labor for dredge operators engaged on Government work be limited to eight hours a day, which was referred to the Committee on Education and Labor.

Mr. SHIVELY presented petitions of the Retail Merchants' Association, of Connersville; the Chamber of Commerce, of South Bend; and the Business Men's Association, of Evansville, all in the State of Indiana, praying for the ratification of the proposed treaty of arbitration between the United States and Great Britain, which were referred to the Committee on Foreign Relations.

Mr. WETMORE presented a petition of the Business Men's Association, of Pawtucket, R. I., praying for the ratification of the proposed treaty of arbitration between the United States and Great Britain, which was referred to the Committee on Foreign Relations.

Mr. NELSON presented a petition of the Commercial Club, of Brainerd, Minn., praying for the ratification of the proposed treaty of arbitration between the United States and Great Britain, which was referred to the Committee on Foreign Relations.

He also presented a petition of the Mankato District of the National League of Postmasters, of Mankato, Minn., praying for the establishment of a parcels-post system, which was referred to the Committee on Post Offices and Post Roads.

LOANS IN THE DISTRICT OF COLUMBIA.

Mr. CURTIS. I ask unanimous consent to have printed in the RECORD a part of an editorial from the Washington Times on the loan-shark bill.

There being no objection, the matter was ordered to be printed in the RECORD, as follows:

THE LOAN SHARKS AND THEIR METHODS.

The new Massachusetts law governing the business of loan sharks could well be studied by our District guardians, who seem unaccountably slow getting some protective legislation for this city.

Massachusetts' act takes effect this week, and is the culmination of careful consideration and considerable legislative experience with this business. It is the demonstration that legislation on this subject is no wild experiment in an unknown field. It is no foolish interference with legitimate business. It is simply the effort to make usury laws efficient, to give the poor man a decent chance, to stop one of the worst kinds of oppression that is exercised in our cities *against* the needy and the ignorant.

The business is falling rapidly into control of "chains" of agencies in cities. If a borrower moves from one town to another, the agency in his new town is promptly on his trail. Interest rates actually earned are found in some agencies to have run to 300 per cent a year. The heavy risks are found much exaggerated; losses are really very few.

Most of the loan companies extend credit for amounts ranging from $5 to $50. For a loan of $5 one pays in several companies $1 per week for 7 weeks; for a $10 loan the payments are $1 per week for 15 weeks, or $1.50 for 10 weeks; for a $15 loan $2 per week is exacted for 10 weeks, and for a $20 loan, $2.50 per week for 10 weeks. The favored patron whose credit is good for $25 pays $1.80 for 20 weeks, or $2 per week for 18 weeks. A $50 loan, which is not often made, calls for three monthly payments of $21.60.

The new Massachusetts law establishes a supervisor of loan agencies, and gives him plenary power. After careful investigation it was found that the rate of interest could not be fixed by the law, so provision was made that its maximum should be 3 per cent a month, but the State supervisor has authority to regulate it. No assignment of wages by a married man is legal unless indorsed by his wife, and in no case is an assignment good unless accepted in writing by the employer of the borrower.

A common practice among the Massachusetts companies, it was discovered, is to have the borrower make his note for a larger sum than he actually gets. Then the companies claim that they are not technically loaning money, but "buying notes!" This sort of procedure is not to be countenanced. In order to prevent it the supervisor is given full power to investigate all books, papers, and accounts of the agencies whenever he wishes, so that he may know whether such transactions are going on.

It is a standing reproach to the government of Washington that our legislative authority seems unable or incapable of dealing intelligently with these problems of the modern, complex life of cities. Congress contains few experts in municipal affairs. It ought to make the best use of those it has. It ought to seek the experience and guidance of outside experts in city administration. These things it notoriously does not do.

* * * * *

This affair of the loan-shark legislation has developed a very similar situation. The Senate's debate the other day showed how innocent of any real, useful information are most of the men whose votes will decide what sort of a law on this loan question Washington will get, or whether it will get any.

This sort of government is bad for the city and a discredit to the system under which it is imposed.

HON. ROBERT J. WALKER.

Mr. MARTINE of New Jersey. Mr. President, in view of the reference made to the history, political and otherwise, of Hon. Robert J. Walker by the Senator from Texas [Mr. BAILEY], I hold in my hand a letter from a loving and loyal son of Robert J. Walker, which I desire may be read and printed in the RECORD.

The VICE PRESIDENT. Is there objection? The Chair hears none, and the Secretary will read the letter.

The Secretary read the letter.

Mr. BAILEY. Mr. President, although I regarded it as an indecent performance in the beginning for any Senator to bring to this Chamber the reply of a private citizen to what a Senator had said in the course of a debate, I made no objection to the reading of that document; and had it been a decent attempt to set his father's record right, I would not now object to its appearing in the RECORD; but it is offensive in more than one respect and untruthful in several respects. The writer undertakes to quote a statement I made, and quotes only part of it. For instance, he declares that I charged that his father was then holding a public office under a Republican administration, while the RECORD shows that I said his father "was holding or had held." In view of its offensive character, I move that the communication be excluded from the RECORD.

Mr. MARTINE of New Jersey. Mr. President, I trust that the Senator's motion will not prevail. I insist, in all fairness, that the letter read is not only a touching and forcible tribute from a loyal and loving son, but a splendid defense of a loving father. I insist that the sheer statement of the Senator from Texas that it is untrue is not adequate. These assertions are made by a gentleman responsible for all he says, who is an honored and dignified son of the Commonwealth from which I come. I submit further, Mr. President, that I thought the distinguished Senator went out of his way to traduce and make small the memory of that great Democrat and public servant, the Hon. Robert J. Walker, when he came in the day after his first speech on reciprocity and offered further data in the way of a pamphlet to prove that this gentleman, who had done honored service to his country, was not a Democrat. The question

was not a partisan one; it was not whether Robert J. Walker was a Democrat or whether he was not. The controversy at issue at the time the Senator offered the pamphlet regarding Robert J. Walker was upon the great, broad, moral question of reciprocity, not as to what was the politics of Robert J. Walker. I trust in all sincerity, I trust in all earnestness and deference, that you, Senators, as fair-minded, liberal, honorable, and brave men, will not now move further to traduce and belittle the memory of the honored citizen and splendid Democrat, Robert J. Walker.

Mr. BAILEY. Mr. President, I am no more inclined to reply to the Senator from New Jersey than I am to that private citizen.

I ask the yeas and nays on my motion to exclude that communication from the RECORD.

The PRESIDING OFFICER (Mr. BRANDEGEE in the chair). The Chair desires to ask the Senator from New Jersey, the present occupant of the chair not having been present at the time he made his request, did the Senator from New Jersey ask unanimous consent for the insertion of this document in the RECORD?

Mr. MARTINE of New Jersey. I did, sir; and it was declared granted by the Vice President.

The PRESIDING OFFICER. The Senator from Texas objects.

Mr. BAILEY. No, Mr. President, the Senator from Texas does not object. The Senator from Texas moved, after the communication had been read, in view of its offensive character, to exclude it from the CONGRESSIONAL RECORD.

Mr. MARTINE of New Jersey. I trust that motion will not prevail.

The PRESIDING OFFICER. The matter having been read is now in the RECORD, but the Senator from Texas moves that it be excluded from the RECORD, and on that motion demands the yeas and nays.

The yeas and nays were ordered.

Mr. THORNTON. Mr. President——

The PRESIDING OFFICER. The Secretary will call the roll.

The Secretary proceeded to call the roll and called the name of Mr. BACON.

Mr. BACON. Mr. President, before my name was called the Senator from Louisiana——

Mr. THORNTON. Mr. President, I ask to be recognized.

The PRESIDING OFFICER. The Senator from Georgia [Mr. BACON] is recognized.

Mr. BACON. I want to say that I did not respond to my name because before my name was called the Senator from Louisiana had twice addressed the Chair.

The PRESIDING OFFICER. The Chair did not see the Senator from Louisiana.

Mr. BACON. I have not responded to my name.

The PRESIDING OFFICER. Under the circumstances the Chair will revoke the order that the Secretary proceed with the roll call, and will hear what the Senator from Louisiana has to say.

Mr. THORNTON. Mr. President, I wish to inquire of the Senator from Texas whether, under the circumstances, he would consider the publication of this letter in the RECORD as being personally offensive to him? Is that the ground upon which he objects?

Mr. BAILEY. Mr. President, I think it would be offensive to the Senate for a citizen to undertake to answer a Senator's speech and to assert that the Senator had misrepresented the facts in any case. I believe that would be offensive to any Senator in this body, and I know it is offensive to me.

Mr. POINDEXTER. Mr. President, I make the point of order that unanimous consent has already been given that this letter be read and be printed in the RECORD, and it can not be revoked in view of that.

The PRESIDING OFFICER. The Chair will state that, in the opinion of the Chair, the point of order is not well taken. The matter was read by the Secretary from the desk. Hence it is already a part of the RECORD. The Senator from Texas moves that it be excluded from the RECORD.

Mr. POINDEXTER. The point that I make, however, is that unanimous consent of the Senate has been given that the letter be printed in the RECORD, and that a motion in contravention of that unanimous consent, or action taken under it, is not in order.

The PRESIDING OFFICER. The Chair is constrained to overrule the point of order raised by the Senator from Washington. The Senate has given unanimous consent to have the letter printed in the RECORD to-day, and then to-morrow it may by a majority vote decide otherwise. The matter is in the power of the Senate.

Mr. POINDEXTER. My understanding was that the Senate had, since the brief time I have been here, made several rulings to the effect that the Senate could not overrule a unanimous-consent agreement and take contrary action to the action which had been previously taken by unanimous consent.

The PRESIDING OFFICER. The Chair does not consider that the granting of unanimous consent for the printing of matter in the RECORD is in the nature of a unanimous-consent agreement such as the Senator from Washington refers to.

Mr. MARTINE of New Jersey. Mr. President, I desire to state to the Senate, particularly to the distinguished Senator from Texas [Mr. BAILEY], that it is very far from me to pursue or venture a word or thought that might justly be offensive to any Senator on this floor. I feel that I am too big for such narrowness. I had no thought of doing an ungenerous or an unkind thing. In fact, sir, I had this communication two days ago.

I desired to present it, for I felt that in justice it should be associated beside the charges that were made against this man's father; but I desisted for the reason that I felt that sheer manhood demanded that I should await the presence of the Senator, and I have waited until the Senator might be present. I say that with no just reason can the distinguished Senator from Texas or any other Senator charge or claim my intention was to be offensive.

Mr. SMOOT. Mr. President, I do not understand that unanimous consent was given. The letter was presented and read to the Senate, but I myself intended to object to its going into the RECORD, and it was not on account of the unanimous consent that it has gone into the RECORD. It has gone into the RECORD now on account of having been read. The motion to strike out is certainly in order, and if the Senator from Texas had not made it, I myself would have made the motion, because I do not believe that the RECORD is the place where a controversial statement outside of the Chamber, made by a private individual, should be recorded as against a Senator of the United States.

The PRESIDING OFFICER. The Chair has so ruled.

Mr. POINDEXTER. Mr. President, I only desire to make the RECORD clear, in order that the ruling of the Presiding Officer upon the point of order that I have made may appear as a precedent of this body. I contend that the RECORD shows that the Senate did give unanimous consent not only for the reading of the letter, but for its printing in the RECORD. I say that in view of the different opinion held and expressed by the Senator from Utah [Mr. SMOOT]. The Senator from New Jersey [Mr. MARTINE] expressly requested that the document be read and be printed.

Mr. MARTINE of New Jersey. I would say, Mr. President, if I may be permitted——

The PRESIDING OFFICER. Does the Senator from Washington yield to the Senator from New Jersey?

Mr. MARTINE of New Jersey. Before I——

The PRESIDING OFFICER. The Senator from New Jersey is out of order. Does the Senator from Washington yield?

Mr. POINDEXTER. I yield.

Mr. MARTINE of New Jersey. I say, before I presented the paper and before the consent was given, I consulted with the President of this body, Vice President SHERMAN, and stated to him that I had a letter from Mr. Duncan Walker, the son of Robert J. Walker, and asked that I might present it.

Mr. POINDEXTER. Mr. President, it is only in view of the statement made by the Senator from Utah that I rise again to refer to the matter. I understood that the Presiding Officer ruled squarely upon the point and upon the RECORD, as I understood it to be, notwithstanding the fact that unanimous consent had been given. The question of the RECORD is now raised by the Senator from Utah; but the RECORD itself undoubtedly will show that the Senator from Utah is mistaken as to what took place when the Senator from New Jersey offered the document.

Mr. BACON. Mr. President, I want to call the attention of the Senator from Washington and of the Senate to the distinction between the consent which was assumed to have been given in this case and what we generally understand by "unanimous consent." There is a kind of unanimous consent which we have when debate is proceeding out of order, and the Chair announces that it is proceeding by unanimous consent; in other words, it is proceeding in the absence of objection; but it is a very different thing when the Senate, in order to regulate its proceedings, determines by unanimous consent upon a certain course, that it will vote at a certain time, for instance, or anything of that kind. That is of peculiar importance; it is not a slight matter to vary it in any way, and our rule is not to vary it in any way, even by subsequent

unanimous consent; but in this instance there was no submission of the question to the Senate by the Chair, and there was no call for a submission to the Senate by the Chair. Therefore no unanimous consent was given, and when the proposition was submitted by the Senator from New Jersey it was only a unanimous consent in the sense that I have indicated, just as the Chair frequently announces that debate is out of order but is proceeding by unanimous consent. It has a dignity, but it is not to be considered in the same light at all as the unanimous-consent agreements which we formally make in order to control our method of procedure.

Mr. CLARK of Wyoming. Mr. President, I think there is little need to split hairs as to whether unanimous consent was given or otherwise, because I think the matter is in another way disposed of. If unanimous consent were given, the fact of the matter is that that unanimous consent was carried out, that its full purpose was fulfilled, and that the matter is now in the RECORD. So the former unanimous consent falls, and we are confronted with a bare record of this matter, and the question is now whether it shall be stricken out on the motion of the Senator from Texas. I do not think the question of unanimous consent enters into it at this moment in any way whatever.

Mr. POINDEXTER. I am perfectly willing, Mr. President, to submit to the ruling of the Chair upon this proposition. I desire to say, however, that I am unable to see any distinction between one unanimous consent and another unanimous consent. The Chair announced that there was no objection, and must have so announced before the reading could have been proceeded with. Whether or not he formally asked the question if there was objection, it must be assumed that he asked it, otherwise he would have had no authority to announce that there was unanimous consent.

I do not propose to argue now the soundness of the parliamentary rule under which it has been held the Senate can not, even by unanimous consent, revoke what has been done by unanimous consent. It has always seemed to me to be a sound proposition that the Senate ought to be able to govern its action at all times, at least by unanimous consent, and that certainly by unanimous consent, at least, it should be able to modify or revoke a previous unanimous consent; but nevertheless it is a ruling, it is a precedent of the Senate, which I have seen put in practice at various times, that it can not interfere, even by unanimous consent, with what it has done by unanimous consent.

Mr. SMOOT. Mr. President——

The PRESIDING OFFICER. The Chair desires to state——

Mr. MARTINE of New Jersey. One moment, if you please.

The PRESIDING OFFICER. The Chair is about to make a statement on a parliamentary question.

The Chair desires to state that, whether unanimous consent was given or not, the matter is in the RECORD, the paper having been read by the Secretary from the desk. The motion of the Senator from Texas is that it be excluded from the RECORD.

Mr. MARTINE of New Jersey. Mr. President, in view of the rolling up that seems to have been incurred by the offering of an innocent letter from an old gentleman who is 75 years of age, defending the memory of an honored father, and as it has touched the quick to such an extent, I desire to withdraw it.

Mr. BAILEY. Mr. President, I object to the withdrawal of it. I want that matter passed upon.

Mr. BORAH. I object.

The PRESIDING OFFICER. Objection is made.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. The Senator from Idaho.

Mr. BORAH. I rose to the point which has just been made.

The PRESIDING OFFICER. The yeas and nays have been ordered upon the motion of the Senator from Texas, which is that the matter be excluded from the RECORD. The Secretary will call the roll.

The Secretary proceeded to call the roll.

Mr. CLARK of Wyoming (when his name was called). I have a general pair with the senior Senator from Missouri [Mr. STONE]. In his absence I withhold my vote. If he were present, I should vote "yea."

The roll call was concluded.

Mr. CLARK of Wyoming. I transfer my pair with the senior Senator from Missouri [Mr. STONE] to the senior Senator from Rhode Island [Mr. WETMORE], and will vote. I vote "yea."

Mr. DILLINGHAM. I transfer my general pair with the senior Senator from South Carolina [Mr. TILLMAN] to the senior Senator from Massachusetts [Mr. LODGE], and will vote "yea."

The result was announced—yeas 49, nays 0, as follows:

YEAS—49.

Bacon	Clark, Wyo.	Martin, Va.	Smith, Mich.
Bankhead	Crane	Martine, N. J.	Smoot
Borah	Cummins	Nelson	Stephenson
Bourne	Curtis	Newlands	Swanson
Bradley	Dillingham	O'Gorman	Taylor
Brandegee	Dixon	Oliver	Thornton
Briggs	Gamble	Overman	Townsend
Brown	Gronna	Owen	Warren
Bryan	Heyburn	Page	Watson
Burnham	Johnson, Me.	Perkins	Works
Burton	Jones	Poindexter	
Chamberlain	Kenyon	Pomerene	
Chilton	Lippitt	Root	

NOT VOTING—41.

Bailey	Frye	McCumber	Simmons
Bristow	Gallinger	McLean	Smith, Md.
Clapp	Gore	Myers	Smith, S. C.
Clarke, Ark.	Guggenheim	Nixon	Stone
Crawford	Hitchcock	Paynter	Sutherland
Culberson	Johnston, Ala.	Penrose	Tillman
Cullom	Kern	Percy	Wetmore
Davis	La Follette	Rayner	Williams
du Pont	Lea	Reed	
Fletcher	Lodge	Richardson	
Foster	Lorimer	Shively	

So Mr. BAILEY's motion was agreed to.

The PRESIDING OFFICER. The Chair desires to ask the indulgence of the Senate, referring to the ruling of the Chair on the distinction between a unanimous-consent agreement and a unanimous consent granted in the ordinary routine business, to call attention of the Senate to the note on page 492 of the Precedents of the Senate, by Henry H. Gilfry, and asks the Secretary to read the note to the Senate.

The Secretary read the note, as follows:

There is no rule of the Senate covering unanimous-consent agreements. Unanimous consent is frequently given in the routine business of the Senate, but a unanimous-consent agreement is a more formal matter. It is alone governed by custom. It is always stated in specific terms by the Presiding Officer, and, if given in reference to action to be taken on a subsequent day, is noted upon the title page of the Calendar of Business. Such consents, although not enforceable by the Chair, are never violated.

REPORTS OF COMMITTEES.

Mr. WETMORE, from the Committee on the Library, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

A bill (S. 304) for the erection of a statue to the memory of Gen. James Miller at Peterboro, N. H. (Rept. No. 116); and

A bill (S. 305) for the erection of a statue of Maj. Gen. John Stark in the city of Manchester, N. H. (Rept. No. 117).

He also, from the same committee, to which was referred the joint resolution (S. J. Res. 38) permitting the Sons of Veterans, United States of America, to place a bronze tablet in the Washington Monument, submitted an adverse report thereon (No. 118), which was agreed to, and the joint resolution was postponed indefinitely.

Mr. ROOT, from the Committee on the Library, to which was referred the bill (S. 125) to permit the American Academy in Rome to enlarge its purposes, and for other purposes, reported it without amendment and submitted a report (No. 119) thereon.

He also, from the same committee, to which was referred the bill (S. 1327) to provide for the selection and purchase of a site for and erection of a monument or memorial to the memory of Gen. George Rogers Clark, reported it with amendments and submitted a report (No. 120) thereon.

Mr. BRIGGS, from the Committee on the Library, to which was referred the bill (S. 1655) appropriating $10,000 to aid in the erection of a monument in memory of the late President James A. Garfield at Long Branch, N. J., reported it with amendments and submitted a report (No. 121) thereon.

Mr. BRADLEY, from the Committee on Claims, to which was referred the bill (S. 295) to adjust the claims of certain settlers in Sherman County, Oreg., reported it with an amendment and submitted a report (No. 122) thereon.

MONUMENT TO GEN. WILLIAM CAMPBELL.

Mr. SWANSON. I am directed by the Committee on the Library, to which was referred the bill (S. 1098) for the erection of a monument to the memory of Gen. William Campbell, to report it without amendment, and I submit a report (No. 123) thereon.

Mr. MARTIN of Virginia. I ask unanimous consent for the present consideration of the bill.

The PRESIDING OFFICER. Is there objection?

Mr. HEYBURN. Let the bill go over.

Mr. WATSON. I object.

The PRESIDING OFFICER. Objection is made, and the bill will go to the calendar.

THE THIRD DEGREE.

Mr. BORAH. I submit a report (S. Rept. 128) of a select committee of the Senate, appointed under a resolution of the Senate adopted April 30, 1910, "to inquire into and report to the Senate the facts as to the alleged practice of administering what is known as the 'third degree' ordeal by officers or employees of the United States for the purpose of extorting from those charged with crime statements and confessions, and also as to any other practices tending to prevent or impair the fair and impartial administration of the criminal law," which committee was continued after the 4th of March, 1911, and during this session of Congress by Senate resolution adopted February 21, 1911. I ask that the report be printed and that the select committee be discharged from the further consideration of the matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

RELIEF OF CERTAIN INDIANS.

Mr. OWEN. I am directed by the Committee on Indian Affairs, to which was referred the joint resolution (S. J. Res. 49) to authorize the Secretary of the Interior to make a per capita payment to the enrolled members of the Five Civilized Tribes entitled to share in the funds of said tribes, to report it without amendment, and I submit a report (No. 124) thereon.

The joint resolution is proposed on account of three successive crop failures, as shown by the report of the Secretary of the Interior. I ask for its present consideration.

The PRESIDING OFFICER. The Senator from Oklahoma asks unanimous consent for the present consideration of the joint resolution. Is there objection?

Mr. SMOOT. Mr. President——

The PRESIDING OFFICER. Does the Senator from Oklahoma yield to the Senator from Utah?

Mr. OWEN. Yes.

Mr. SMOOT. I should like to ask the Senator from Oklahoma if it is a report from the Indian Affairs Committee?

Mr. OWEN. It is a report from the Committee on Indian Affairs, based upon a report of the Secretary of the Interior, recommending this particular item.

Mr. HEYBURN. I ask that it go over.

The PRESIDING OFFICER. Objection is made, and the joint resolution will go to the calendar.

Mr. OWEN. I am directed by the Committee on Indian Affairs, to which was referred the bill (S. 3115) to authorize the Secretary of the Interior to withdraw from the Treasury of the United States the funds of the Kiowa, Comanche, and Apache Indians, and for other purposes, to report it with amendments, and I submit a report (No. 125) thereon.

This bill also is based upon the recommendation of the Interior Department for a like provision for the Kiowa, Comanche, and Apache Indians. I ask that the report of the Secretary of the Interior be printed as a part of the report of the committee. I ask for the present consideration of the bill.

The PRESIDING OFFICER. The report of the Secretary of the Interior will be incorporated in the report of the committee. The Senator from Oklahoma asks unanimous consent for the present consideration of the bill. Is there objection?

Mr. HEYBURN. Let the bill go to the calendar.

The PRESIDING OFFICER. The Senator from Idaho asks that the bill go to the calendar. Objection is made to present consideration, and the bill will go to the calendar.

Mr. OWEN. I am directed by the Committee on Indian Affairs, to which was referred the bill (S. 3151) to extend time of payment of balance due for lands sold under act of Congress approved June 17, 1910, to report it with an amendment, and I submit a report (No. 126) thereon.

This report is based upon the same condition of drought in that country. In view of the objection of the Senator from Idaho [Mr. HEYBURN], I ask that it go to the calendar.

The PRESIDING OFFICER. It will go to the calendar.

Mr. OWEN. I am directed by the Committee on Indian Affairs, to which was referred the bill (S. 2) supplementary to and amendatory of the act entitled "An act for the division of the lands and funds of the Osage Nation of Indians in Oklahoma," approved June 28, 1906, and for other purposes, to report it without amendment, and I submit a report (No. 127) thereon.

I ask that it go to the calendar.

The PRESIDING OFFICER. The bill will go to the calendar.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. BROWN:

A bill (S. 3169) granting an increase of pension to Thomas E. Ellis; to the Committee on Pensions.

A bill (S. 3170) to correct the military record of W. J. Kingsbury (with accompanying paper); to the Committee on Military Affairs.

By Mr. WORKS:

A bill (S. 3171) granting an increase of pension to Stephen J. F. Ruter (with accompanying paper); and

A bill (S. 3172) granting an increase of pension to Michael Crane (with accompanying paper); to the Committee on Pensions.

By Mr. ROOT:

A bill (S. 3173) granting an increase of pension to Helen Louise Scott (with accompanying papers); to the Committee on Pensions.

By Mr. OWEN:

A joint resolution (S. J. Res. 50) to provide for installing throughout the United States for 1912 and subsequent years many of the epoch-making improvements in the machinery of party government.

Mr. OWEN. I ask that the joint resolution may lie on the table.

The PRESIDING OFFICER. Without objection, the joint resolution will lie on the table.

MILEAGE TO CERTAIN SENATE EMPLOYEES.

Mr. GRONNA submitted the following resolution (S. Res. 127), which was read and referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That those officers, clerks, and other employees of the Senate who return to the homes in the States of the respective Senators in connection with their official duties shall be entitled to mileage at the close of each session at the rate of 10 cents per mile, to be estimated by the nearest route usually traveled in going to and returning from their homes; to be paid out of the contingent fund of the Senate, until otherwise provided by law, upon vouchers approved by the chairman of the committee or the Senator with whom such person is employed.

THE SHERMAN ACT—ADDRESS OF THE ATTORNEY GENERAL.

Mr. KENYON. I ask unanimous consent to have printed as a public document an address of the Attorney General of the United States, delivered July 6, 1911, before the Michigan State Bar Association, on the subject of the recent interpretation of the Sherman Act. (S. Doc. No. 83.)

There has been a very large demand for it, and it is impossible to secure copies of this address. The subject is one of very great public interest.

The PRESIDING OFFICER. The Senator from Iowa asks unanimous consent for the printing as a public document of the pamphlet he sends to the desk.

Mr. SMOOT. I should like to ask the Senator if that has not already been made a public document?

Mr. KENYON. It has not.

Mr. SMOOT. The junior Senator from Utah [Mr. SUTHERLAND] asked that one speech which was delivered by the Attorney General be made a public document, but I forget whether it was this one or not.

Mr. KENYON. This is the speech delivered before the Michigan State Bar Association July 6. It has not been made a public document.

The PRESIDING OFFICER. Without objection, the request is granted.

Mr. JONES subsequently said: I desire to ask that the address of the Attorney General which has just been ordered printed as a public document may also be ordered printed in the RECORD.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Washington? The Chair hears none, and the address will be printed in the RECORD.

The address is as follows:

RECENT INTERPRETATION OF THE SHERMAN ACT.

The only legitimate end and object of all government is the greatest good of the greatest number of the people. The means by which this end is attained vary in accordance with the experience and the temperament of the people. Government is necessarily more or less of an experiment at all times, but as men have been making similar experiments ever since the dawn of recorded history, the waste of repeating unsuccessful experiments of the past may be avoided by studying the records of the results of earlier effort; and, other things being equal, all thoughtful persons will agree that the probabilities of success will be greater if action be taken along lines which in the past, under similar conditions, has been attended with resulting benefit to the common weal. All history demonstrates the fact that the greatest prosperity to the State has resulted from allowing to individual effort in trade and commerce the utmost freedom consistent with the protection of society at large.

Yet the experience of the remote as well as of the recent past demonstrates the necessity of some governmental regulation of private enterprise, in order that the fruits of industry may not be entirely garnered into a few hands and that the freedom of individual effort may not be unduly restrained.

We need look no further than to the history of England, from which we derive most of our conceptions of civil liberty, for evidence of the character of evils affecting trade and commerce which commercial prosperity tends to develop and of the methods which have proved most effective in restricting those evils.

The first statute enacted in England, in 1436, against agreements in restraint of trade (15 Henry VI, reenacted 1503, 19 Henry VI, c. 7.) was directed against regulations made "by persons in confederacy for their 'singular profit and the common damage of the people.'" Note that even at that early date the action of the legislature was directed at curbing the selfish exercise of power by a few for their own benefit but to the common damage of the people.

The considerations upon which contracts in restraint of trade were held void at common law, as our Supreme Court has often pointed out, were (1) the injury to the public by being deprived of the restricted party's industry, and (2) the injury to the party himself by being precluded from pursuing his occupation, thus tending to make him more or less of a public charge. (Gibbs *v.* Baltimore Gas Co., 130 U. S., 396, 409.) In the case of a corporation chartered by a State to carry on a particular business, any agreement entered into voluntarily by it which impaired or restricted in any material degree its power to discharge the functions conferred upon it by the State was necessarily contrary to the public policy and void. (People *v.* N. River Sugar. Ref. Co., 54 Hun., 354.)

Monopolies in trade have been at all times, under all forms of government, regarded as obnoxious to the general welfare. They were early declared to be contrary to the law of England, and the outburst of popular resentment to the grant by Queen Elizabeth to certain of her favorites of the exclusive right of dealing in particular commodities compelled even that powerful monarch to disclaim any intention to offend against the popular sense of right and justice of her subjects and to blame her advisers for the acts, which she formally disavowed:

"There are no patents now of force (declared Cecil, speaking to the House of Commons concerning the various grants of monopoly) which shall not presently be revoked, for what patent soever is granted there shall be left to the overthrow of that patent a liberty agreeable to the law. There is no patent, if it be malum in se, but the Queen was ill apprised in her grant. But all to the generality be unacceptable. I take it there is no patent whereof the execution hath not been injurious. Would that they had never been granted. I hope there shall never be more. (All the House said Amen.)" (D'Ewes Journal of the Parliaments of Elizabeth, p. 652.)

The vice of monopoly was recognized in England to be the power acquired by the monopolist to control prices by excluding competition. With the tremendous development of the marvelous natural resources of a new country, and the unprecedented powers conferred by State legislation throughout the United States upon associations of individuals under corporate form, the opportunity and the machinery for the centralization of control over great industries proved so tempting to cupidity that twenty-odd years ago, even so busy, self-satisfied a people as the prosperous citizens of these United States were aroused to the necessity of checking the rapid tendency to the concentration of control of great industries into a few hands. While the State courts and legislatures attempted to deal with the subject, it was soon recognized that only the National Government could adequately grapple with an evil which had become national in its extent. The simple but unlimited power vested in Congress "to regulate commerce with foreign nations and among the several States and with the Indian tribes," furnished the General Government with sufficient jurisdiction to protect the commerce of the Nation from undue restraints and monopolization.

So the act of July 2, 1890, was passed, declaring in terms so comprehensive yet so simple that it has required two decades of judicial exposition to bring their meaning home to the people with living force, that "every contract, combination in the form of trust or otherwise, or conspiracy in restraint of commerce among the States, or with foreign nations," is illegal, and that every person who shall monopolize or attempt to monopolize any part of such trade or commerce is guilty of a misdemeanor; and that the United States circuit courts sitting in equity shall have jurisdiction, at the suit of the United States, to prevent and restrain all violations of the act. Very slowly indeed has a full consciousness of the meaning of this law come over the intelligence of the American people. The first effort to apply it, in the Knight case (158 U. S., 1), proved abortive, partly because of an imperfect recognition of the remedies which should have been sought; partly because of a too narrow conception of the extent of congressional power over interstate commerce.

It was then successfully directed in the Trans-Missouri (166 U. S., 290) and the Joint Traffic Association (171 U. S., 506) cases against agreements between interstate railroads made to control rates of interstate transportation; but an extreme statement of the meaning of the phrase "restraint of trade," enunciated in the opinions of the court in those cases, became the basis of a school of literal interpretation which seemed bent upon reducing the law to an absurdity and thus creating a public sentiment which would make impossible its enforcement. Yet the author of those opinions in the second of them rejected, with some sarcasm, the interpretation sought to be placed upon his language in the earlier one. Observing at the outset that no contract of the nature described by counsel as those which he suggested would be invalidated by the application of the meaning given by the court to the words of the act was before the court in the case under consideration, and that there was therefore some embarrassment in assuming to decide just how far the act might go in the direction claimed, Justice Peckham said:

"Nevertheless, we might say that the formation of corporations for business or manufacturing purposes has never, to our knowledge, been regarded in the nature of a contract in restraint of trade or commerce. The same may be said of a contract of partnership. It might also be difficult to show that the appointment by two or more producers of the same person to sell their goods on commission was a matter in any degree in restraint of trade. We are not aware that it has ever been claimed that a lease or purchase by a farmer, manufacturer, or merchant of an additional farm, manufactory, or shop, or the withdrawal from business of any farmer, merchant, or manufacturer, restrained commerce or trade within any legal definition of that term; and the sale of a good will of a business, with an accompanying agreement not to engage in a similar business, was instanced in the Trans-Missouri case as a contract not within the meaning of the act, and it was said that such a contract was collateral to the main contract of sale and was entered into for the purpose of enhancing the price at which the vender sells his business."

In the Addyston Pipe case (175 U. S., 227) it was held that the act operated to invalidate an agreement between members of an association of corporate manufacturers of iron pipe, made for the purpose of controlling prices by suppressing competition among themselves. Montague *v.* Lowry (193 U. S., 38), was to the same effect.

In the Northern Securities case it was held that control of two competing lines of interstate railway could not be acquired by vesting a majority of the stock of each in a corporation organized under the laws of New Jersey without violating the act. In the Swift case (196 U. S., 375) a combination between competitors in the business of buying and shipping live stock and converting it into fresh meats for human consumption, suppressing bidding against each other, and arbitrarily, from time to time, raising, lowering, and fixing prices, and combining to make uniform charges to the public, was also held within the prohibition of the statute.

In the Danbury Hat case (Loewe *v.* Lawler, 218 U. S., 274), a combination of individuals to prevent defendants (manufacturers of hats) from manufacturing and shipping hats in interstate commerce was condemned; and in the Continental Wallpaper case (212 U. S., 227) a combination of manufacturers of wall paper, fixing prices and providing against sales except under agreements between members of the combination, was held to violate the law.

In the meantime certain of the decisions had drawn a line of differentiation by holding that the act was not intended to affect contracts which have only a remote and indirect bearing upon commerce between the States (Field *v.* Barber Asphalt Co., 194 U. S., 618; Hopkins *v.* United States, 171 U. S., 578) and that a covenant by the vendor of an interstate business to protect the purchaser from competition for a reasonable period, made as a part of the sale of the business and not as a device to control commerce, was neither within the letter nor the spirit of the act. (Cincinnati Packet Co. *v.* Bay, 200 U. S., 179.)

While the intent of parties entering into a particular agreement or combination, etc., was held to be immaterial where the necessary inference from the facts was that the direct and necessary result of the agreement was to restrain trade, yet in the Swift case Justice Holmes pointed out that intent was almost essential to a combination in restraint of commerce among the States and was essential to an attempt to monopolize the same:

"Where acts are not sufficient in themselves to produce a result which the law seeks to give them—for instance, the monopoly—but require further acts in addition to the mere forces of nature to bring that result to pass, an intent to bring it to pass is necessary in order to produce a dangerous probability that it will happen. * * * But when that intent and the consequent dangerous probability exist this statute, like many others and like the common law in some cases, directs itself against thaf dangerous probability as well as against the completed result." (Swift & Co. *v.* United States, 196 U. S., 396.)

The proceeding against the American Tobacco combination brought before the court for the first time the question of the full interpretation of the statute in its application to attempts to monopolize, and in deciding the case in the circuit court Judge Lacombe expressed the extreme view of the school of literal interpretation by asserting that the act prohibited every contract which to any extent operated to restrain competition in interstate commerce.

"Size [he said] is not made the test. Two individuals who have been driving rival express wagons between villages in contiguous States, who enter into a combination to join forces and operate a single line, restrain an existing competition; and it would seem to make little difference whether they make such combination more effective by forming a partnership or not. (164 Fed., 702.)

On the other hand, Circuit Judge Hook, in the Standard Oil case, decided in the eighth circuit, after the decision in the Tobacco case, said:

"The construction of the act should not be so narrow or technical as to belittle the work of Congress, but, on the contrary, it should accord with the great importance of the subject of the legislation and the broad lines upon which the act was framed. The language employed in the act is as comprehensive as the power of Congress in the premises, and the purpose was not to hamper business fairly conducted, but adequately to promote the common interest in freedom of competition and to remove improper obstacles from the channels of commerce that all may enter and enjoy them. The wisdom of the law lies in its spirit as well as in its letter, and unless they go together in its construction and application justice goes astray."

Speaking of the application of the second section of the act, he added that the modern doctrine with respect to monopoly "is but a recognition of the obvious truth that what a government should not grant, because injurious to public welfare, the individual should not be allowed to secure and hold by wrongful means."

This being the state of the law, the four decisions involving a construction of the act rendered by the Supreme Court during the term just closed are of especial interest. The first case decided came up on writ of error brought by the United States to reverse a judgment of the circuit court in New York sustaining pleas in bar to an indictment for conspiracy to restrain interstate commerce in violation of the first section of the act. (United States *v.* Kissel, 218 U. S., 601.) The facts stated in the plea showed that the conspiracy had been originally entered into more than three years before the finding of the indictment. The circuit court had held that the crime was completed as soon as the conspiracy was formed, but the indictment charged a continuing conspiracy to eliminate competition. The court said:

"A conspiracy to restrain or monopolize trade by improperly excluding a competitor from business contemplates that the conspirators will remain in business and will continue their combined efforts to drive the competitor out until they succeed. If they do continue such efforts in pursuance of the plan, the conspiracy continues up to the time of abandonment or success."

The facts set forth in the indictment as the means by which the alleged purpose was to be accomplished showed that the acts committed by the defendants were for the purpose of preventing a competing company from engaging in business; that this prevention continued and could only be terminated by the affirmative act of the defendants, which act had not been performed. The plea was therefore held bad.

"A conspiracy in restraint of trade [said Mr. Justice Holmes] is different from and more than a contract in restraint of trade. A conspiracy is constituted by an agreement, it is true, but it is the result of the agreement rather than the agreement itself; just as a partnership, although constituted by a contract, is not the contract but is a result of it. The contract is instantaneous; the partnership may endure as one and the same partnership for years. A conspiracy is a partnership in criminal purposes. That as such it may have continuation in time is shown by the rule that an overt act of one partner may be the act of all without any new agreement specifically directed to that act." * * *

The next case decided was that of Dr. Miles Medical Co. *v.* John D. Parks & Sons Co. That was a suit in equity brought by a manufacturer of proprietary medicines prepared in accordance with secret formulæ, to prevent dealings in them by third parties in violation of a system of contracts with its purchasers, denominated as agents (wholesale distributing agents and retail distributing agents), to main-

tain certain prices fixed by it for all sales of its products at wholesale or retail. The court held that the evidence showed that complainant had created "a system of interlocking restrictions by which the complainant seeks to control not merely the prices at which its agents may sell its products, but the prices for all sales by all dealers at wholesale or retail, whether purchasers or subpurchasers, and thus to fix the amount which the consumer shall pay, eliminating all competition."

The court quoted the description of the essential features of the system given by Mr. Justice Lurton in his opinion in the circuit court of appeals, as follows:

"The contracting wholesalers or jobbers covenant that they will sell to no one who does not come with complainant's license to buy, and that they will not sell below a minimum price dictated by complainant. Next, all competition between retailers is destroyed, for each such retailer can obtain his supply only by signing one of the uniform contracts prepared for retailers, whereby he covenants not to sell to anyone who proposes to sell again unless the buyer is authorized in writing by the complainant, and not to sell at less than a standard price named in the agreement. Thus all room for competition between retailers, who supply the public, is made impossible. If these contracts leave any room at any point of the line for the usual play of competition between the dealers in the product marketed by complainant, it is not discoverable. Thus a combination between the manufacturer, the wholesalers, and the retailers to maintain prices and stifle competition has been brought about."

That these agreements restrained trade the court held to be obvious. That having been made as the bill alleged with most of the jobbers and wholesale druggists and a majority of the retail druggists of the country, and having for their purpose the control of the entire trade, they related directly to interstate as well as intrastate trade, and operated to restrain commerce among the several States, was also stated to be clear. The court analyzed and dismissed the contention that the restraints were valid because they related to proprietary medicines manufactured under a secret process. It further held that a manufacturer can not by rule and notice, in the absence of contract or statutory right, even though the restriction be known to purchasers, fix prices for future sales. Reference was made in this regard to the decision by the Supreme Court in the case of Bobbs-Merrill Co. *v.* Strauss (210 U. S., 339) that no such privilege exists under the copyright statutes, although the owner of a copyright has the sole right to vend copies of the copyrighted production, and it was said that the manufacturer of an article of commerce not protected by any statutory grant was not in any better case. The agreements in the case at bar were obviously designed to maintain prices after the complainant had parted with title to the articles, and to prevent competition among those who traded in them, and for that reason they were held to be void. The court cited a long line of cases by which it had been adjudged that agreements or combinations between dealers, having for their sole purpose the destruction of competition and the fixing of prices are injurious to the public interests and void.

"They are not saved by the advantages which the participants expect to derive from the enhanced price to the consumer * * *. And where commodities have passed into the channels of trade and are owned by dealers, the validity of agreements to prevent competition and to maintain prices is not to be determined by the circumstance whether they were produced by several manufacturers or by one, or whether they were previously owned by one or by many. The complainant having sold its product at prices satisfactory to itself, the public is entitled to whatever advantage may be derived from competition in the subsequent traffic." (220 U. S., 373, 408.)

Following these two cases, the Supreme Court next addressed itself to the decision of the case of the two great monopolistic combinations—the Standard Oil and the American Tobacco.

In the Standard Oil case the Supreme Court affirmed a decree of the circuit court which adjudged that the individual and corporate defendants had entered into and were carrying out a combination or conspiracy in restraint of interstate and foreign commerce in petroleum and its products, such as was prohibited by the first section of the act; and that by means of this combination those defendants had combined and conspired to monopolize, had monopolized, and were continuing to monopolize a substantial part of the commerce among the States, in the Territories, and with foreign nations, in violation of section 2 of the act.

This conclusion was based on the following considerations, viz:

"1. Because the unification of power and control over petroleum and its products, which was the inevitable result of the combining in the New Jersey corporation by the increase of its stock and the transfer to it of the stocks of so many other corporations, aggregating so vast a capital, gave rise, in and of itself, in the absence of countervailing circumstances, to say the least, to the prima facie presumption of intent and purpose to maintain the dominancy over the oil industry, not as a result of normal methods of industrial development, but by new means of combination which were resorted to in order that greater power might be added than would otherwise have arisen had normal methods been followed, the whole with the purpose of excluding others from the trade and thus centralizing in the combination a perpetual control of the movements of petroleum and its products in the channels of interstate commerce."

2. Because this prima facie presumption was made conclusive by considering the conduct of the persons and corporations who were mainly instrumental in bringing about the acquisition by the New Jersey corporation of the stocks of the large number of corporations which it acquired, as well as the modes in which the power vested in the New Jersey corporation had been exerted and the results which had arisen from it.

The acts of the defendants preceding the transfers to the New Jersey company of the shares of stock of a large number of other corporations were held by the court to evidence "an intent and purpose to exclude others which was frequently manifested by acts and dealings wholly inconsistent with the theory that they were made with the single conception of advancing the development of business power by usual methods, but which, on the contrary, necessarily involved the intent to drive others from the field and to exclude them from their right to trade, and thus accomplish the mastery which was the end in view."

Confirmation of the finding of a continuous intent in the defendants to exclude others from the field and themselves to dominate it was found in an examination of the exercise of its power by the combination after it was formed.

"* * * The acquisition here and there which ensued of every efficient means by which competition could have been asserted, the slow but resistless methods which followed, by which means of transportation were absorbed and brought under control, the system of marketing which was adopted, by which the country was divided into districts, and trade in each district in oil was turned over to a designated corporation within the combination, and all others, were excluded, all lead the mind up to a conviction of a purpose and intent which we think is so certain as practically to cause the subject not to be within the domain of reasonable contention."

Briefly, therefore, the decision of the court was put upon the ground that the defendant, by vesting in a New Jersey corporation the stocks of a large number of other corporations engaged in various branches of the production, refining, transportation, and marketing of petroleum and its products, which but for such control would or might have been engaged in competition with each other in interstate and foreign commerce in those commodities, had acquired the control of that commerce; and that such control was acquired and had been and was exercised with the intent and purpose of maintaining it—not as a result of normal methods of business, but by new means of combination, resorted to in order to secure greater power than would have been acquired by normal methods, and of driving out and excluding, so far as possible, all competitors in the business, thus centralizing in the combination a perpetual control of the movements of petroleum and its products in the channels of interstate commerce.

It was not alone the acquisition of a large share of commerce among the States and with foreign countries upon which the court predicated the conclusion of unlawful combination and monopolization, but the attainment of dominion over a substantial part of that commerce by means of intercorporate stock holdings in actually or potentially competing corporations, accompanied by the exclusion of competitors, and attended with continued acts evidencing an intent and purpose to retain controlling power over the business and to exclude and suppress all competition with it.

In reaching the conclusions stated the Chief Justice reviewed the history of the English law on the subject of monopolies and restraints of trade, and held that the Sherman Act "was drawn in the light of the existing practical conception of the law of restraint of trade," and that "in view of the many new forms of contracts and combinations which were being evolved from existing economic conditions, it was deemed essential by an all-embracing enumeration to make sure that no form of contract or combination by which an undue restraint of interstate or foreign commerce was brought about could save such restraint from condemnation. The statute, under this view, evidenced the intent not to restrain the right to make and enforce contracts, whether resulting from combination or otherwise, which did not unduly restrain interstate or foreign commerce, but to protect that commerce from being restrained by methods, whether old or new, which would constitute an interference that is an undue restraint."

The Chief Justice further said that as the act had not defined contracts in restraint of trade, the standard of reason, which had been applied at the common law and in this country in dealing with subjects of the character embraced in the statute, was intended to be the measure used for determining whether in a given case a particular act had or had not brought about the wrong against which the statute provided. He rejected the idea that the use of the words "every contract, etc., in restraint of trade" in the statute leaves no room for the exercise of judgment, "but simply imposes the plain duty of applying its prohibitions to every case within its literal language." This, he said, would be to make the statute "destructive of all right to contract or agree or combine in any respect whatever as to subjects embraced in interstate trade or commerce." He cited the language of Justice Peckham in writing the opinion of the court in Hopkins *v.* United States. (171 U. S., 578, 592.)

"To treat as condemned by the act all agreements under which, as a result the cost of conducting an interstate commercial business may be increased, would enlarge the application of the act far beyond the fair meaning of the language used. There must be some direct and immediate effect upon interstate commerce in order to come within the act."

And he observed—

"If the criterion by which it is to be determined in all cases whether every contract, combination, etc., is a restraint of trade within the intendment of the law is the direct or indirect effect of the acts involved, then, of course, the rule of reason becomes the guide * * *."

A consideration of the text of the second section, he said, serves to establish that it was intended to supplement the first and to make sure that by no possible guise could the public policy embodied in the first section be frustrated or evaded.

"In other words, having by the first section forbidden all means of monopolizing trade—that is, unduly restraining it by means of every contract, combination, etc.—the second section seeks, if possible, to make the prohibition of the act all the more complete and perfect by embracing all attempts to reach the end prohibited by the first section—that is, restraints of trade by any attempt to monopolize, or monopolization thereof, even although the acts by which such results are attempted to be brought about, or are brought about, are not embraced within the enumeration of the first section." (Hopkins *v.* U. S., 171 U. S., 578, 592.)

Mr. Justice Harlan, in a separate opinion, while concurring in the main with the decision of the court, interpreted the majority opinion as amounting to a reading into the statute of the word "unreasonable" before the words "restraint of trade," and vigorously protested that such interpretation was in substance the reversing of the previous deliberate judgments of the court to the effect "that the act, interpreting its words in their ordinary acceptation, prohibits all restraints of interstate commerce by combinations, in whatever form, and whether reasonable or unreasonable."

Two weeks after the decision in the Standard Oil case the court rendered its decision in the case against the tobacco combination. In his opinion, which was concurred in by all the associate justices but Harlan, the Chief Justice interpreted the opinion in the former case and answered the criticisms of Mr. Justice Harlan and those who had expressed views as to the meaning of the Standard Oil decision similar to his.

"In that case [said the Chief Justice] it was held without departing from any previous decision of the court that as the statute had not defined the words 'restraint of trade' it became necessary to construe those words, a duty which could only be discharged by a resort to reason."

He quoted the language of Justice Peckham in the Joint Traffic case. (171 U. S., 568.)

"The act of Congress must have a reasonable construction, or else there would scarcely be an agreement or contract among business men that could not be said to have, indirectly or remotely, some bearing upon interstate commerce, and possibly to restrain it.

"Applying [said the Chief Justice] the rule of reason to the construction of the statute, it was held in the Standard Oil case that, as the

words 'restraint of trade' at common law and in the law of this country at the time of the adoption of the antitrust act, only embraced acts or contracts or agreements or combinations which operated to the prejudice of the public interest by unduly restricting competition or unduly obstructing the due course of trade, or which, either because of their inherent nature or effect or because of the evident purpose of the acts, etc., injuriously restrained trade, that the words as used in the statute were designed to have and did have but a like significance. It was therefore pointed out that the statute did not forbid or restrain the power to make normal and usual contracts to further trade by resorting to all normal methods, whether by agreement or otherwise, to accomplish such purpose. In other words, it was held not that acts which the statute prohibited could be removed from the control of its prohibitions by a finding that they were unreasonable, but that the duty to interpret which inevitably arose from the general character of the term 'restraint of trade' required that the words 'restraint of trade' should be given a meaning which would not destroy the individual right to contract and render difficult, if not impossible, any movement of trade in the channels of interstate commerce—the free movement of which it was the purpose of the statute to protect." (U. S. *v.* American Tobacco Co. et al.)

The facts presented in the Tobacco case were more intricate and involved than those in the Standard Oil case. Not only was the American Tobacco Co. the holder of stocks in other companies, but it was itself a consolidated company formed by the merger under the laws of New Jersey of three preexisting companies. The combination of many previously competing companies was created first by the transfer of shares of stock from one to the other, afterwards cemented by absolute conveyances of land, plants, and other property and business. The nucleus of the combination was the original American Tobacco Co., organized in January, 1890, and to which was at once conveyed by deed and transfer the plants and business of five different concerns, competitors in the purchase of the raw product which they manufactured and in the distribution and sale of the manufactured products. The result of this combination was to give to the new company immediately on its organization a practical monopoly of the cigarette business of the United States, and that accomplishment colored all subsequent proceedings in the widening sweep of the combination, the progress of which was noted by the Supreme Court as being attended with the constant acquisition of competing concerns, buttressed by covenants on the part of all their officers and principal stockholders not to engage in business in competition with the purchaser; and in the acquisition of many competitors, not for the purpose of continuing their operation but of closing them down and putting them permanently out of business. A summary of the salient facts dwelt on by the court as the basis for its decision was made in this language:

"Thus, it is beyond dispute: First, that since the organization of the new American Tobacco Co. that company has acquired four large tobacco concerns, that restrictive covenants against engaging in the tobacco business were taken from the sellers, and that the plants were not continued in operation but were at once abandoned. Second, that the new company has besides acquired control of eight additional concerns, the business of such concerns being now carried on by four separate corporations, all absolutely controlled by the American Tobacco Co., although the connection as to two of these companies with that corporation was long and persistently denied.

"Thus, reaching the end of the second period and coming to the time of the bringing of the suit, brevity prevents us from stopping to portray the difference between the condition in 1890, when the (old) American Tobacco Co. was organized by the consolidation of five competing cigarette concerns, and that which existed at the commencement of the suit. That situation and the vast power which the principal and accessory corporate defendants and the small number of individuals who own a majority of the common stock of the new American Tobacco Co. exert over the marketing of tobacco as a raw product, its manufacture, its marketing when manufactured, and its consequent movement in the channels of interstate commerce—indeed, relatively, over foreign commerce and the commerce of the whole world, in the raw and manufactured products—stand out in such bold relief from the undisputed facts which have been stated * * *." (U. S. *v.* American Tobacco Co. et al.)

These undisputed facts, the court well said, involved questions as to the operation of the antitrust law not hitherto presented in any case. They clearly demonstrated that the acts, contracts, agreements, combinations, etc., which were assailed were of such an unusual and wrongful character as to bring them within the prohibitions of the law.

"Indeed," said the Chief Justice, "the history of the combination is so replete with the doing of acts which it was the obvious purpose of the statute to forbid, so demonstrative of the existence from the beginning of a purpose to acquire dominion and control of the tobacco trade, not by the mere exertion of the ordinary right to contract and to trade, but by methods devised in order to monopolize the trade by driving competitors out of business, which were ruthlessly carried out upon the assumption that to work upon the fears or play upon the cupidity of competitors would make success possible." (U. S. *v.* American Tobacco Co. et al.)

These conclusions were stated to be inevitable, not because of the vast amount of property aggregated by the combination, not because alone of the many corporations which the proof showed were united by resort to one device or another, not alone because of the dominion and control over the tobacco trade which actually existed, but because the court was of opinion that the conclusion of wrongful purpose and illegal combination was overwhelmingly established by the following considerations:

1. The fact that the first organization or combination was impelled by a previously existing fierce trade war, evidently inspired by one or more of the minds which brought about and became parties to the combination.

2. Because, immediately after that combination, the acts which ensued justified the inference that the intention existed to use the power of the combination as a vantage ground to further monopolize the trade in tobacco by means of trade conflicts designed to injure, either by driving competitors out of the business or compelling them to become parties to the combination.

3. By the ever-present manifestation of a conscious wrongdoing by the form in which the various transactions were embodied from the beginning—now the organization of a new company, now the control exerted through taking up stock in one or another or in several, so as to obscure the result actually attained, evidencing a constant purpose to restrain others and to monopolize and retain power in the hands of the few who, from the beginning, contemplated the mastery of the trade which followed.

4. By the absorption of control of all the elements essential to the manufacture of tobacco and its products, and placing such control in the hands of seemingly independent corporations serving as perpetual barriers against others in the trade.

5. By persistent expenditure of large sums in buying out plants, not to utilize but to close up, rendering them useless for the purposes of trade.

6. By the constantly recurring stipulations exacted from manufacturers, stockholders, or employees, binding themselves generally for long periods not to compete in the future.

From all of these acts the court deduced the conclusion that the defendants had been engaged in a largely successful effort, extending over a period of years, to monopolize (that is, wrongfully to acquire to themselves) the dominion over the manufacture and marketing of tobacco and its products and accessories, not by normal methods of business, but by unfair and subtle methods of combination, resorted to in order to secure greater power than they could have acquired by normal methods of business, and with the intention of driving out and excluding so far as possible all other competitors and centralizing in the combination a perpetual control of the movements of tobacco and its products and accessories in the channels of interstate and foreign commerce.

The remedy to be applied in the Standard Oil case was comparatively simple and obvious, and the decree of the circuit court which, with slight modifications, was affirmed by the Supreme Court, to use the language of that court, "commanded the dissolution of the combination, and therefore, in effect, directed the transfer by the New Jersey corporation back to the stockholders of the various subsidiary corporations entitled to the same, of the stock which had been turned over to the New Jersey corporation in exchange for its stock, and enjoined the stockholders of the corporations after the dissolution of the combination from by any device whatever recreating directly or indirectly the illegal combination which the decree dissolved."

A far more intricate problem was presented in the Tobacco case, as was frankly recognized by the court. Conveyances, consolidations, and mergers, and the dissolution of previously existing corporations whose stocks and properties had been acquired, had so blended the whole combination into new form as to make it impossible to effect a dissolution by the simple method applicable to the Standard Oil case, and therefore the Supreme Court said that, in determining the relief proper to be given, it might not model its action upon that granted by the court below, but in order to award relief coterminous with the ultimate redress of the wrongs which the court found to exist, it must approach the subject of relief from an original point of view. In considering the subject from that aspect, the court said that three dominant influences must guide its action:

"1. The duty of giving complete and efficacious effect to the prohibitions of the statute; 2, the accomplishment of this result with as little injury as possible to the interest of the general public; and, 3, a proper regard for the vast interests of private property which may have become vested in many persons * * * without any guilty knowledge or intent in any way to become actors or participants in the wrongs which we find to have inspired and dominated the combination from the beginning."

For the purpose of meeting that situation the court declared that it might at once resort to one or the other of two general remedies:

"(*a*) The allowance of a permanent injunction restraining the combination as a universality and the individuals and corporations which form a part of or cooperate in it in any manner or form from continuing to engage in interstate commerce until the illegal situation be cured * * * ; or, (*b*) to direct the appointment of a receiver to take charge of the assets and property in this country of the combination in all its ramifications for the purpose of preventing a continued violation of the law, and thus working out by a sale of the property of the combination or otherwise a condition of things which would not be repugnant to the prohibitions of the act."

The court, however, in consideration of the public interests and that of innocent participants, determined to send the case back to the circuit court, with directions to endeavor to ascertain and determine upon some plan or method of dissolving the combination and working out a lawful condition of things, if that could be done within a period of six months, with a possible extension of two months longer; but that in the event that such condition of disintegration in conformity with the law should not be brought about within that time, it should be the duty of the court "either by way of an injunction restraining the movement of the products of the combination in the channels of interstate or foreign commerce or by the appointment of a receiver to give effect to the requirements of the statute."

Probably no more drastic decree has ever been entered by the Supreme Court than this. The court remits to the circuit court the execution of a decree of dissolution of a combination of 67 corporations and 29 individuals, with assets amounting to upward of $400,000,000 book value and net earnings exceeding $36,000,000 per annum; which had acquired 77 per cent of the entire business of the United States in manufactured tobacco, plug and smoking tobacco; 96 per cent of snuff; 77 per cent of cigarettes; 91 per cent of little cigars, and 14 per cent of cigars and stogies, and which has acquired probably the most extensive monopoly of interstate and foreign commerce ever created in the world. This combination was ordered to be resolved into, not necessarily its original elements, but, in effect, to be divided up into a number of separate and distinct integers, no one of which should threaten monopoly, and which should not either by reason of their organization and business or in their relation to each other constitute combinations in restraint of interstate or foreign commerce. The Supreme Court not only empowered but directed the circuit court, in case this lawful condition should not be brought about within a period of six or eight months, to either appoint a receiver of this vast property for the purpose of, by sale or otherwise, working out the ordered disintegration, or by injunction to paralyze and end its conduct of interstate business. Those who have thoughtlessly yielded to the superficial conclusion resulting from the application by the Chief Justice of the rule of reason to the interpretation of the Sherman law, can find but little to justify the idea that the Sherman law has been rendered ineffective by those two decisions, for precisely the contrary is clearly established by these great judgments. The most cursory examination of the decree in the tobacco case, the most casual consideration of the drastic and far-reaching remedy imposed, makes it perfectly apparent that the Sherman law, perhaps for the first time, has been demonstrated to be an actual, effective weapon to the accomplishment of the purpose for which it was primarily enacted, namely, the destruction of the great combinations familiarly known as trusts.

The main reliance of the defendants in both the Standard Oil and the Tobacco cases was the decision in United States *v.* Knight (156 U. S., 1) to the effect that the acquisition of a number of manufacturing plants in one State by a corporation of another State was not within the intent of the Sherman law, even though the purchaser

thereby acquired upward of 90 per cent of all the refineries of sugar in the United States, because manufacture alone and not commerce was involved. The Knight case had been distinguished in subsequent cases as not involving any questions of interstate commerce. In the Standard Oil case the court dismissed it with scant consideration, saying—

"The view, however, which the argument takes of that case and the arguments based upon that view have been so repeatedly pressed upon this court in connection with the interpretation and enforcement of the antitrust act, and have been so necessarily and expressly decided to be unsound, as to cause the contentions to be plainly foreclosed and to require no express notice."

The court cited as illustrative of this point the cases of United States *v.* Northern Securities Co. (193 U. S., 334), Loewe *v.* Lawler (208 U. S., 274), United States *v.* Swift & Co. (196 U. S., 375), Montague *v.* Lowry (193 U. S., 38), Shawnee Compress Co. *v.* Anderson (209 U. S., 423).

But the decision in the case of West, Attorney General, *v.* Kansas Natural Gas Co., rendered May 15, 1911, goes further in overthrowing the doctrine of the Knight case than any of those cited by the Chief Justice in the Standard Oil case, or than the obvious disregard of its authority in the latter case. In the Knight case, the facts presented in the evidence were taken by the court as involving merely the acquisition by one corporation of manufactories wholly within the State, and it was held that such acquisition was not within the power of the Congress of the United States to regulate commerce among the States and with foreign countries.

"Doubtless (said Chief Justice Fuller) the power to control the manufacture of a given thing involves in a certain sense the control of its disposition, but this is a secondary and not a primary sense. * * * Commerce succeeds to manufacture and is not a part of it.

"* * * The regulation of commerce applies to the subject of commerce and not to matters of internal police. Contracts to buy, sell, or exchange goods to be transported among the several States, the transportation and its instrumentalities and articles bought, sold, or exchanged for the purpose of such transit among the States, or put in the way of transit, may be regulated, but this is because they form part of interstate trade or commerce. The fact that an article is manufactured for export to another State does not of itself make it an article of interstate commerce, and the intent of the manufacturer does not determine the time when the article or product passes from the control of the State and belongs to commerce."

The cases of Coe *v.* Errol (116 U. S., 517) and Kidd *v.* Pearson (128 U. S., 1) were cited in support of the proposition that functions of manufacture and commerce were different; that to hold otherwise would be to invest Congress, "to the exclusion of States, with the power to regulate not only manufactures, but also agriculture, horticulture, stock raising, domestic fisheries, mining—in short, every branch of human industry." That contracts, combinations, or conspiracies to control domestic enterprises in manufactures, agriculture, mining, production in all its forms, or to raise or lower prices or wages, might unquestionably tend to restrain external as well as domestic trade, the court conceded, but it said that such restraint would be an indirect result, however inevitable and whatever its extent, and such result would not necessarily determine the object of the contract, combination, or conspiracy. So it was held in Kidd *v.* Pearson, that the refusal of a State to allow articles to be manufactured within her borders, even for export, did not directly affect external commerce and did not trench upon the congressional control over interstate commerce.

In the case of West, Attorney General, *v.* Kansas Natural Gas Co., the Supreme Court reviewed decisions of the United States Circuit Court in suits having for their common purpose an attack upon the constitutional validity of a statute of Oklahoma, framed for the purpose of prohibiting the transportation or transmission of natural gas from points within that State to points in other States, this prohibition sought to be accomplished by various provisions in the statute under review. The statute was held to be prohibitive of interstate commerce in natural gas, and consequently a violation of the commerce clause of the Constitution of the United States. Mr. Justice McKenna, writing the opinion of the court, said that the act presented no embarrassing questions of interpretation.

"It was manifestly enacted in the confident belief that the State has the power to confine commerce in natural gas between points within the State. * * * And the State having such power, it is contended, if its exercise affects interstate commerce it affects such commerce only incidentally; in other words, affects it only, as it is contended, by the exertion of lawful rights and only because it can not acquire the means for its exercise."

The results of the contention, the court held, repel its acceptance.

"Gas, when reduced to possession, is a commodity; it belongs to the owner of the land, and, when reduced to possession, is his individual property subject to sale by him, and may be a subject of intrastate commerce and interstate commerce. The statute of Oklahoma recognizes it to be a subject of intrastate commerce, but seeks to prohibit it from being the subject of interstate commerce, and this is the purpose of its conservation. In other words, the purpose of its conservation is in a sense commercial—the business welfare of the State, as coal might be, or timber. Both of these products may be limited in amount, and the same consideration of the public welfare which would confine gas to the use of the inhabitants of a State would confine them to the inhabitants of the State. If the States have such power, a singular situation might result. Pennsylvania might keep its coal, the Northwest its timber, the mining States their minerals. And why may not the products of the field be brought within the principle? Thus enlarged, or without that enlargement, its influence on interstate commerce need not be pointed out. To what consequences does such power tend? If one State has it, all States have it; embargo may be retaliated by embargo, and commerce will be halted at State lines. And yet we have said that 'in matters of foreign and interstate commerce there are no State lines.' In such commerce, instead of the States, a new power appears and a new welfare, a welfare which transcends that of any State. But rather let us say it is constituted of the welfare of all of the States and that of each State is made the greater by a division of its resources, natural and created, with every other State, and those of every other State with it. This was the purpose, as it is the result, of the interstate commerce clause of the Constitution of the United States. If there is to be a turning backward, it must be done by the authority of another instrumentality than a court. * * * At this late day it is not necessary to cite cases to show that the right to engage in interstate commerce is not the gift of a State, and that it can not be regulated or restrained by a State, or that a State can not exclude from its limits a corporation engaged in such commerce."

If, therefore, the State can not control the transmission of natural gas produced within its borders to other States, because to concede that control would be in effect to empower it to cut off at its source all of the objects of interstate commerce, how can it retain the right to prohibit the manufacture within its limits of commodities intended to be shipped in interstate commerce? Commodities when so manufactured are precisely like natural gas reduced to the possession of the owner; that is, a commodity which belongs to him as his individual property is subject to sale by him, and may be the subject of interstate and intrastate commerce. It is true the statute did not deal with the production of the gas, and to that extent, possibly, it is not in conflict with Kidd *v.* Pearson and Coe *v.* Errol. Yet if the constitutional right of Congress to regulate interstate commerce attaches to the commodity the moment it is in existence in the hands of the owner, so that the State may not prohibit its shipment in interstate commerce, does it not apply as well from that moment to prevent the owner from himself, by combination or agreement, imposing an undue restraint upon its shipment in such commerce? What the State is prohibited from doing the citizen may not do, and the Sherman Act attaches from the moment the commodity comes into existence to prevent any impediment being laid upon its possible passage into the ordinary and usual currents of commerce among the States.

Summing up the results of these late decisions, therefore, it will be seen that the area of uncertainty in the law has been greatly narrowed and that its scope and effect have been pretty clearly defined; the school of literal interpretation has been repudiated, and the application of a rule of reasonable construction declared. There will be always, of course, a field of uncertainty in so far as an investigation of facts, particularly when intent becomes a necessary consideration, is required. But this much may surely be said to be now beyond controversy.

That ordinary agreements of purchase and sale, of partnership, or of corporate organization do not violate the first section of the Sherman Act, even though incidentally and to a limited degree they may operate to restrain competition in interstate or foreign commerce between the parties to such agreements.

But any contract, combination, or association the direct object and effect of which is to control prices, restrict output, divide territory, refrain from competition, or exclude or prevent others from competing in any particular field of enterprise, imposes an undue restraint upon trade and commerce and is in violation of the first section of the act. This principle applies to all associations of competitors of the character usually known as pools; to agreements with so-called wholesale or retail agents whereby the manufacturer of an article, even though made according to some secret process or formula, seeks to control the price at which it may be sold by purchasers directly or indirectly from the manufacturer. It applies also to attempts to control competition between independent concerns by means of a stockholding trust, whether individual or corporation holder.

Size alone does not constitute monopoly. The attainment of a dominant position in a business acquired as the result of honest enterprise and normal methods of business development is not a violation of the law. But unfair methods of trade, by destroying and excluding competitors by means of intercorporate stockholdings, or by means of agreements between actual or potential competitors, whereby the control of commerce among the States or with foreign countries in any particular line of industry is secured or threatened, expose those who are concerned in such efforts to the penalties prescribed in the second section of the act, because they are engaged in monopolizing or attempting to monopolize such commerce.

It is also now settled that no form of corporate organization, merger, or consolidation, no species of transfer of title, whether by sale, conveyance, or mortgage, and no lapse of time from the date of the original contract, conspiracy, or combination can bar a Federal court of equity from terminating an unlawful restraint or compelling the disintegration of a monopolistic combination. The maxim nullum tempus occurrit regi is applicable to any continuing combination or conspiracy which the antitrust act of 1890 condemns.

Speaking of the conscious development of institutions in America, Prof. Woodrow Wilson, in his work on the State, writes:

"It is one of the distinguishing characteristics of the English race, whose political habit has been transmitted to us through the sagacious generation by whom this Government was erected, that they have never felt themselves bound by the logic of laws, but only by a practical understanding of them, based upon slow precedent. For this race the law under which they live is at any particular time what it is then understood to be, and this understanding of it is compounded of the circumstances of the time. Absolute theories of legal consequence they have never cared to follow out to their conclusions. Their laws have always been used as parts of the practical running machinery of their politics—parts to be fitted from time to time, by interpretation, to existing opinion and social condition."

If this law, designed to protect the people of this country from the evils of monopoly and to preserve the liberty of the individual to trade freely, shall now be clearly understood; if its true purpose shall be recognized and its beneficent consequences realized, the 20 years of slowly developed interpretation and widening precedent will not have been without great value. For the law will henceforth be used, to employ Dr. Wilson's language, as a part of the running machinery of our political system, adapted to the needs of our social condition.

COAL AND ASPHALT ON CERTAIN INDIAN LANDS.

Mr. GAMBLE. I ask unanimous consent to have printed as a Senate document three letters from the Secretary of the Interior, the first on the bill (S. 2350) providing for the valuation of the segregated coal and asphalt lands in the Choctaw and Chickasaw Nations in the State of Oklahoma, and for the sale of the surface and the disposition of the mineral rights therein; the next on the bill (S. 2831) to provide for the sale of the surface of the segregated coal and asphalt lands of the Choctaw and Chickasaw Nations in Oklahoma; and the third on the bill (S. 2998) authorizing and directing the Secretary of the Interior to sell the surface of the segregated coal and asphalt lands belonging to the Chickasaw and Choctaw Tribes of Indians. (S. Doc. No. 85.)

It is a very important subject, and the Committee on Indian Affairs has ordered a hearing thereon. It will facilitate the hearing very much if the papers can be printed as a document.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the request is granted.

ADDRESS OF PRESIDENT TAFT.

Mr. SMOOT. I ask that the address of President Taft to the Philadelphia Medical Club, at the Bellevue-Stratford, Philadelphia, Pa., May 4, 1911, be printed as a public document. (S. Doc. No. 84.)

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

CONSIDERATION OF PROPOSED LEGISLATION.

The PRESIDING OFFICER. The morning business is closed.

Mr. NEWLANDS. I ask unanimous consent for the present consideration of Senate resolution No. 109, providing for a certain program of legislation and for a recess of Congress.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Nevada?

Mr. SMITH of Michigan. In view of the fact that we have only a few minutes before the unfinished business will come up automatically I object.

Mr. NEWLANDS. I think there will be no debate upon it. I simply want to have a vote.

Mr. SMITH of Michigan. I do not want to take any chances.

The PRESIDING OFFICER. Objection is made to the request of the Senator from Nevada.

NEW MEXICO AND ARIZONA.

The PRESIDING OFFICER. The Chair lays before the Senate the unfinished business, the hour of 2 o'clock having arrived.

The Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. J. Res. 14) to admit the Territories of New Mexico and Arizona as States into the Union upon an equal footing with the original States, which had been reported from the Committee on Territories with amendments.

Mr. SMITH of Michigan. I make the point of no quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Bacon	Chamberlain	La Follette	Pomerene
Bailey	Chilton	Lippitt	Root
Bankhead	Clark, Wyo.	Martin, Va.	Shively
Borah	Clarke, Ark.	Martine, N. J.	Simmons
Bourne	Crane	Nelson	Smith, Mich.
Bradley	Crawford	Newlands	Smoot
Brandegee	Cullom	Oliver	Stephenson
Briggs	Cummins	Overman	Swanson
Bristow	Foster	Owen	Taylor
Bryan	Gamble	Page	Wetmore
Burnham	Gronna	Perkins	Works
Burton	Heyburn	Poindexter	

Mr. BRYAN. My colleague [Mr. FLETCHER] is absent on business of the Senate. I will let this announcement stand for the day.

Mr. CHAMBERLAIN. The junior Senator from Alabama [Mr. JOHNSTON] requested me to state that he is absent on business of the Senate in the Lorimer investigation. I make this announcement for the day.

The PRESIDING OFFICER. Forty-seven Senators having answered to their names, a quorum of the Senate is present.

Mr. HEYBURN. Mr. President, it is not my intention to speak at any length upon this occasion, but I will at least outline one or two points in a very brief time.

I do not know whether Senators realize that this proposed constitution for the State of Arizona affects the Senate of the United States or not. I have not heard it suggested that it does. But section 5 of article 8, which deals with the question of the election of members of the legislature of the new State, will affect the title of the Members of this body. It is provided in section 5 that—

> No recall petition shall be circulated against any officer until he shall have held his office for a period of six months, except—

Now, here is the provision—

> except that it may be filed against a member of the legislature at any time after five days from the beginning of the first session after his election.

It is not difficult to see how you could disseminate a legislature if you did not desire that the legislature should elect a United States Senator. It would be all planned beforehand. The petitions could be circulated and would be ready at hand, so that before the time fixed by law for the election of a Senator the members of the legislature, or a sufficient number of them, could be recalled, either to break a quorum or to recall the adverse members of the legislature. A man who wanted to get rid of an opponent in the legislature would simply have the petitions there for the recall of the members opposed to him, because it requires only 25 per cent of the vote to recall, and it would be very easy to get the 25 per cent.

I wonder if that crept in or was put in for a purpose. If the Senate of the United States were to concur in that provision as a part of the constitution of a State, the creation of which is by Congress, I should be very much surprised. I am not going to discuss that question at length. It is obvious on the face of the constitution.

This recall provision also authorizes the recall of judges.

To recur to the other question, the statute does not require that any special ground shall be made the basis of the recall. You can recall a man because you do not like the color of his hair. That under this provision would be quite sufficient. You could describe your dislike to his complexion in 200 words, get the petition signed, and he is recalled. When the petition is filed he is recalled, not when it is acted upon, because it does not require that the petition shall be acted upon. He is recalled by the filing of the petition. It says so. So you would recall all the members of the legislature who were going to support the other candidate. Probably it would be a mutual affair and would result in the recalling of every member of the legislature.

Now, that is a nice provision to be placed in the organic law of a State.

Following that, the election does not have to occur for 30 days after the member of the legislature is recalled. During that interval the time might expire in which a United States Senator could be elected, because if the legislature expired, say, on the 1st day of March, and the recall petition was filed on the 2d day of February, or the 1st day even of February, the election need not occur until after the expiration of the session of the legislature at which a Senator was to be elected.

Then, again, you may repeat this recall as often as a new man is elected. New members of the legislature being elected in lieu of those who were recalled, the recall petition might be filed against the new member at any time within the limitation, and so on. You could destroy a legislature, and what men can do or are authorized to do the law presumes they will do. There could be repeated withdrawals as fast as new men are elected. There would be no difficulty in defeating a United States Senator, and that affects this body; it affects the Congress of the United States. It is our duty to see to it that no such provision as that is put in the organic law of any State, because through it this body might be destroyed. If the wave of political insanity is going to sweep on and overtake other States, tempting them to adopt such constitutional provisions as that found in section 5 of article 8, we might destroy utterly this body.

They have used loose language in section 1 of article 8. While it is susceptible of a construction that would probably remove the objection, yet it is not quite certain why they used the word "in," in the first line, instead of the word "of." They say, "Every public officer in the State holding an elective office, either by election or appointment, is subject to recall." I assume that when men use an unusual term or word they would have a purpose in doing it. Is a Member of Congress within the scope of that provision? A Member of Congress is not a national officer; he is an officer of the State or the congressional district that elects him. That is what the courts say. Does he come within that provision? Can they recall a Member of Congress, or can they raise the question——

Mr. WORKS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from California?

Mr. HEYBURN. I do.

Mr. WORKS. Does the Senator believe that if any such provision were made it would be effective or could be enforced; that is, if it could be given that construction?

Mr. HEYBURN. I do not need to go that far. I do not need to go beyond the consideration of the question as to whether or not it might be contended——

Mr. WORKS. That is not an answer to my question.

Mr. HEYBURN. I think neither the Senator from California nor myself would want to give a final judgment in that matter. But why did they use the unusual language?

Mr. WORKS. Does the Senator say he is not willing to give an opinion upon that question?

Mr. HEYBURN. At the proper time I should not shrink from giving an opinion.

Mr. WORKS. The Senator declines to do it now.

Mr. HEYBURN. But it is not necessary to do it. It is not necessary to arrive at an ultimate conclusion at this time. I think the Senator was not in the Chamber when I was discussing the provisions of section 5 of article 8 with reference to the election of members of the legislature.

Mr. WORKS. I am very sorry that I was not in, for I should have been very glad to have heard what the Senator had to say about it.

Mr. HEYBURN. I did not make that remark to draw from the Senator from California a regret that he was absent, but merely to explain that he had not heard all the story.

Now, I shall content myself with just pointing out a few of these as texts for consideration, and later, before a vote is taken upon this question, I shall discuss it.

Under the provisions of this article a judge may be recalled after he has been in office six months; and when the judge is recalled the question that the people vote upon is, Was there sufficient reason existing for recalling him? In that question would be involved the righteousness of his decision; and the people at the polls would have to sit as an appellate tribunal upon the decisions of the judge that had been made the subject of attack. Instead of trying those cases in the court and rendering a judgment and abiding by it, no judgment would be final until at least six months after it had been rendered, and the people would have to pass upon it.

I happen to be possessed of one of these Populist, no, Socialist ballots. There is the ballot [exhibiting] in one of the States of the United States at the last election, upon which is printed the questions that the people were to pass upon at that election. There it is [exhibiting]. It is printed in small type, quite small, something smaller than pica. Of course I have no doubt that any Senator here could comprehend the questions involved that were submitted at that election, but I will undertake to say that not one person in five thousand outside of this Chamber could do it. I wonder if Senators have had an opportunity to see the practical working of this thing. That is an actual ballot in one of the States at the last election.

In order that Senators in reading the RECORD may be prepared for a further consideration of this question, I am going to call their attention to another instance of the practical operation of the recall. I have here the proceedings in a city that has a Socialist mayor and city government, and these proceedings were June 6, 1911. Dr. Woods was elected mayor of the city. The local organization of Socialists took action on the 5th or 4th of June of this year in regard to that mayor. I read:

The Socialist local—

That is what they call their organization—

The Socialist local Sunday afternoon gave Dr. J. T. Woods, mayor of Coeur d'Alene, the alternative of presenting his resignation to the council as mayor, stepping down and out, or following out the wishes of the present Socialist local and heeding the mandates already imposed at a recent meeting.

I am reading real history now of facts occurring within a month. This was done on Sunday. They hold their meetings preferably on Sunday. If the Senator from Alabama [Mr. JOHNSTON] were present, he probably would be interested in that question. This is what they do:

It is understood that these orders to the mayor are briefly comprised in the following, although couched in different, language:

But I have the official check-up on this. This is really the statement. First, they demand:

1. The removal of George Evans as acting chief of police.

That is, this local board demands of the mayor the removal of George Evans as acting chief of police.

2. The temporary appointment of John Flemming as chief of police.
3. Removal of City Gardener William Degner.
4. The appointment of C. A. Waters in place of Degner.
5. The appointment of B. F. Huggins for sanitary police officer.
6. The appointment of A. D. Brown to take the place of Flemming on the police force.

The skirmish that was anticipated was a very tame affair, the vote being 30 to 9—

That is, in this local—

in favor of giving Dr. Wood the alternative.

The local members resent the report published in a Spokane paper intimating that the local demands the appointment of H. A. Barton as chief of police. They brand this as false. They demand Flemming's promotion, so they claim.

The resolution embodying the local's demand is briefly summed up as follows:

"If Mayor Wood does not comply with the demands of the Socialist local before the next council meeting, that the secretary be ordered to hand in his (Wood's) resignation."

After it was moved and seconded it was carried by a referendum vote.

Those political principles and schemes seem to be so interwoven that you do not know just when you are on one side of the line or the other.

It is claimed the State organizer will be here in the near future, and then things will be doing and the stillness of the Potomac will be a mere dream.

The local indorsed the publication of a paper in the city and wished it Godspeed in the field.

This mayor had been in office but seven weeks when this action was taken against him.

That merely gives you a very accurate and correct knowledge of the kind of government that these Socialists propose. One of the most prominent features which it claims "is its right to discipline and control the official actions of its officers, agents, committees, and elected representatives in all matters wherein the integrity and obligations of the party is at stake, whether on strictly party matters or matters relating to the fulfillment of the party's obligations or pledges to the public."

That is the kind of government that is threatened. That was on June 6. July 28, a few days ago, they took final action:

Mayor Wood is expelled from the Socialist Party by a solid vote of the local—He fails to attend meeting—Twenty-five pass upon charges against doctor—Principal charge is willful declaration and refusal to comply with the imperative mandates of local.

It is not often that we are favored with so candid an expression of the policy which they pursue when they have the power. I should have read, before the Senator from the State of Washington left the Chamber, the proceedings in Spokane, an adjoining section of the country, in which substantially the same things are ordered and sought to be accomplished.

Mr. OLIVER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Pennsylvania?

Mr. HEYBURN. I do.

Mr. OLIVER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The Secretary proceeded to call the roll, and Mr. CHAMBERLAIN responded to his name.

Mr. OLIVER. I ask unanimous consent to withdraw the suggestion.

Mr. HEYBURN. I would not object, but that is not within the power of the Senate.

The PRESIDING OFFICER. The Chair is in doubt whether unanimous consent can be given to dispense with a roll call after there has been an answer to a name.

Mr. HEYBURN. I wish it could be done, but it can not be done.

The PRESIDING OFFICER. The Secretary will proceed with the roll call.

The roll call was resumed and concluded, the following Senators having answered to their names:

Brandegee	Gronna	O'Gorman	Shively
Burnham	Heyburn	Oliver	Simmons
Burton	Johnson, Me.	Page	Smith, Mich.
Chamberlain	Martine, N. J.	Perkins	Smoot
Clark, Wyo.	Myers	Reed	Warren
Curtis	Nelson	Root	

The PRESIDING OFFICER. Only 23 Senators have answered to their names. A quorum of the Senate is not present.

Mr. SMOOT. I ask that the names of the absentees be called.

The PRESIDING OFFICER. The Secretary will call the list of the absentees.

The Secretary called the names of absent Senators.

Mr. BRISTOW, Mr. BORAH, Mr. BRIGGS, Mr. BOURNE, Mr. BRYAN, Mr. CUMMINS, Mr. CHILTON, Mr. MARTIN of Virginia, and Mr. SWANSON entered the Chamber and answered to their names.

The PRESIDING OFFICER. Only 32 Senators having answered to their names, a quorum of the Senate is not present.

Mr. SMOOT. I move that the Senate adjourn.

The motion was agreed to, and (at 2 o'clock and 40 minutes p. m.) the Senate adjourned until to-morrow, Saturday, August 5, 1911, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

FRIDAY, *August 4, 1911.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Our Father in heaven, we lift up our hearts in gratitude to Thee for the advanced movement toward the higher and better civilization, witnessed by the peace pact of three great nations looking to the abolishment of war with all its horrors and to the establishment of a world-wide peace. God grant that the remaining nations may speedily follow the glorious example; that all the peoples of all the earth may join the angelic chorus which has been sounding down the ages, "Glory to God in the highest, and on earth peace, good will toward men," and æons of praise we will give to Thee. In the spirit of the Lord Jesus Christ. Amen.

The Journal of the proceedings of yesterday was read and approved.

THE CONGRESSIONAL RECORD.

Mr. FOWLER. Mr. Speaker, I desire to make a parliamentary inquiry.